



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CRAFT PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes erp, rp, rr

Introduction

The tenant applies for an order for emergency repairs, (or in the alternative, repairs generally), and an order for a rent reduction until repairs are completed.

The landlord failed to attend the hearing. I accept the tenant's testimony and evidence that the landlord was properly served by way of registered mail, to the name and address of the landlord provided in the most recent notice of rental increase, provided to the tenant by the landlord on October 2, 2014.

As a preliminary matter, the tenant requested that I consider late documentary evidence. This evidence had not been provided to the landlord, as required under the rules of procedure, and the tenant was provided the option of having his claim dealt with in the future when all evidence had been properly served, or proceeding without the evidence. The tenant elected to proceed with the hearing, without me considering the new documentary evidence.

As a further matter, the tenant requested that in my decision, I add another party as respondent. This party was never served with the tenant's claim, and I declined the tenant's request to add another party.

Finally, the tenant verbally applied for remedies that were not claimed in his application. As no notice of such remedies has been provided to the landlord, I declined to make or consider such further orders.

Issue(s) to be Decided

Is the tenant entitled to an order that the landlord repair the premises?

Is the tenant entitled to a reduction of rent?

Background and Evidence

The tenant rents an apartment on the second floor of large 5 story apartment block. The tenancy began about 3 years ago. Rent is due on the 1st day of each month, and as of February, 2015 the rent is \$832.28 per month.

On March 26, 2014, the tenant first noticed mold on his bedroom wall. The exterior of this wall is the outside of the building. The tenant requested repairs, and workers did some work to the exterior of the building. The mold grew worse over time, and the tenant again requested repair. On November 21, 2014, workers entered the tenant's suite, and removed portions of the wall and ceiling, and covered these with plastic. Water began to pond on the plastic in the ceiling, and on January 12, 2015 workers removed the water. Water continued to pond, and on January 19, 2015 this water spilled into the tenant's bedroom. The plastic was re-taped, and plastic was also put up on the exterior of the building. On January 20, 2015, further mold was discovered by the tenant to have developed about 6 feet away from the original mold growth. He also find that moisture penetrates through the drywall, so that the drywall in his bedroom is damp to touch.

The tenant has had a bad cough for months, and has booked a medical appointment. He worries that the premises are not safe to live in. His blinds have been removed, and his windows are covered with black plastic. He has large holes in his wall and ceiling, some covered by plastic, other with unfinished drywall.

Analysis

Section 32(1) of the Act requires that a landlord must provide and maintain the premises in a state of repair that complies with health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

An older apartment building may lack certain features found in a new building, but nevertheless can be suitable for occupation. However, there are some health standards that apply to any dwelling regardless of age, and one of those is the control of water leakage or excessive moisture entering a home, which inevitably will translate into mold issues. Regardless of the age or condition of the home, it is not open to landlord to expect tenants to live in an environment that is potentially hazardous to their health. It is widely known that some molds are a definitive health risk to occupants, and accordingly once mold is detected, it is critical to ensure that proper knowledge is obtained as to why the mold is growing, and what steps are appropriate to remove the existing mold, and to take steps on an urgent basis to prevent further incursion of mold.

In this case, there are some critical factors that satisfy me that the request by the tenant is legitimate, and that steps of the nature set out above are required to be undertaken by the landlord in this case:

- The pattern of the development of moisture problems in an exterior bedroom wall, and the attendant mold development are typical of issues that originate with water ingress into the building structure, and subsequent mold growth;
- The tenant has waited for the landlord to rectify the problem ever since his first complaint 10 ½ months ago, but the problem continues;
- The presence of mold is known to be a serious potential health issue, and in particular can affect respiratory system. While not proven to be related to the mold issue, it is possible that the tenant's persistent cough related to the mold spores in the premises, suggesting that it would be prudent that the repairs occur immediately.

The request repairs meet some, but not conditions to qualify as emergency repairs. It has not been established on a balance of probabilities, for example, (as required under section 33(c) of the Act, that there is a major leak in a pipe or roof. While not of an emergency nature, the repairs are nevertheless serious and urgent. Accordingly, I order that the landlord take immediate steps to address and conclude the rectification of the moisture issue and the mold issue, which steps shall include the following:

1. A thorough analysis shall be undertaken of the roof and exterior of the building structure, and of the tenant's unit, to assess and isolate the causes of both the moisture ingress and the mold growth. This must be done by a qualified and certified specialist in mold remediation, at the landlord's expense. This assessment must be initiated immediately, and must be completed no later than February 28, 2015. Although not mandatory, it is suggested that the landlord seek the tenants' approval as to the credentials of the company used for this purpose.
2. A written report must be obtained from the company that assesses the building, and a copy of this report shall be provided to the tenant at the same time it is made available to the landlord. If a report of this nature is not provided to the tenant by February 28, 2015, the tenant will be at liberty to himself arrange for an assessment of the premises of the nature set out in paragraph 1 above. The tenant will be permitted to recover the costs of such assessment (to a maximum of \$1,000.00), by way of a reduction of those costs from future rent, or alternatively by way of payment to him by the landlord.
3. The landlord shall attend to all remediation work required in the report to address all structural issues in the home that are related to the mold growth. All such work must be initiated immediately following the receipt of the report, and in any event

must be completed no later than April 30, 2015. Should repairs be stipulated in the report, but not completed by the landlord by this date, the tenant may at that time consider those repairs to be emergency repairs as provided in the Residential Tenancy Act, and may take the steps set out in the Act to ensure the completion of those repairs.

4. All repairs to the tenant's bedroom walls and ceiling must be completed no later than April 30, 2015.

The tenant shall receive a rebate of 25% of his rent for December and 50% of his rent for January and February. This can be satisfied by way of a reduction by the tenant from future rent obligations to the landlord, or alternatively by way of payment to him directly by the landlord.

The tenant's future monthly rent shall be reduced by 50%, beginning with March, 2015, and continuing for each month thereafter, until the repairs set out above have been fully completed.

Conclusion

The landlord must effect repairs to remediate the moisture and mold issues immediately. The tenant shall be reimbursed for portions of his past and future rent, pending the completion of the repairs.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 10, 2015

Residential Tenancy Branch

