



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sterling Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, RP, FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants for an order that the landlord make repairs to the unit, site or property; for an order that the landlord make emergency repairs for health or safety reasons; and to recover the filing fee from the landlord for the cost of the application.

Both tenants and an agent for the landlord company attended the hearing, and each gave affirmed testimony. The parties were also given the opportunity to question each other respecting the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Should the landlord be ordered to make repairs to the unit, site or property?
- Should the landlord be ordered to make emergency repairs for health or safety reasons?

Background and Evidence

The first tenant testified that the parties entered into a month-to-month tenancy on July 2, 2015. The tenants still reside in the rental unit. Rent in the amount of \$1,500.00 per month is payable in advance on the 1st day of each month and there are no rental arrears. On June 12, 2015 the landlord collected a security deposit from the tenants in the amount of \$750.00 which is still held in trust by the landlord. A copy of the tenancy agreement has been provided.

The tenant further testified that the tenancy agreement was signed on July 2, 2015 but the tenants were told a few days earlier by the property management company that the

home was unfit to live in so something would have to be sorted out. The tenants talked to the property managers about where they would live, and moved into another unit also managed by the same company on July 3, 2015. That was supposed to be temporary. The tenants moved into this rental unit on August 4, 2015. A move-in condition inspection report was completed that day but the tenants did not get a copy.

The tenant testified that the biggest issue was the overwhelming smell of the carpet. Damages were noted, such as the floor coming up in the kitchen, the ceiling sagging above the stove, the strip between the carpet and linoleum in the entry is lifting, water stains exist on the ceiling, the front steps have come apart from the house and some cleaning is required. The tenant keeps trying to clean the carpet to mask the smell.

The tenants seek an order that the linoleum and carpet be replaced throughout the house and fix the ceiling. It's a 3 bedroom old house with no other rental units and the tenant is concerned that winter is coming and further water damage may result. The tenants have 2 children and are concerned about the unsafe stairs.

Also, the tenancy agreement includes a dishwasher, but there isn't one in the rental unit.

The second tenant testified that the house is in poor condition and doesn't seem it will be feasible to live in once winter arrives. The damage to the ceiling concerns the tenant about leaking, and the fridge is dirty.

The tenant was present for the move-in condition inspection and wasn't happy with some of the comments made on the report. The rental unit was very dirty, the ceiling is coming apart in the kitchen, and although marked as "good" on the report, the tenant's opinion is that it was in poor condition. Everything was marked as good when it wasn't.

The landlord's agent testified that the tenants viewed it as an old house and never were told that the ceiling or flooring would be replaced. The move-out condition inspection report was completed with the previous tenant, and it was noticed that the rental unit wasn't in a good condition at that time, so the landlord's agents got ahold of the tenants and found another temporary unit. The landlord's agents planned to get ahold of the owner to get approval to do the flooring but were unsuccessful in reaching him, so they had the carpet steam-cleaned. One bedroom still had an odor but the unit was ready to move into. That was noted on the move-in condition inspection report and the tenants said they would put powder on it and deal with it. Then a couple of weeks later the tenants said the smell was getting worse, so the landlord's agents tried to get ahold of the owner, again without success. A quote for new carpeting was obtained at

\$3,600.00 for carpet only, and the landlord's agent assumes it's for the entire top floor of the rental unit.

The landlord's agent further testified that the whole house does not need new flooring. The strip between the linoleum and carpet in the entry can be repaired; the landlord's agent never knew about it.

The dishwasher was an error on the tenancy agreement; it belonged to the previous tenant.

The move-in condition inspection report doesn't indicate that cleaning is required. The landlord's agents had that done and have an invoice for 9 hours, although none has been provided for this hearing.

The ceiling tiles are stained and perhaps worse in the bathroom, but there's nothing in the move-in condition inspection report saying that anything would be replaced.

Analysis

The *Residential Tenancy Act* requires a landlord to provide and maintain a rental unit in a state of decoration and repair that makes it suitable for occupation by a tenant. The landlord's obligation in that regard exists whether or not the tenant knew of a breach of that at the commencement of the tenancy.

Although I sympathize with the landlord's agents being unable to make such expensive decisions without the owner's consent and that reaching the owner has been challenging, the tenants have an agreement with the landlord, and the landlord has an obligation under the *Act* and the tenancy agreement.

The landlord's agent did not dispute that carpets are a problem, but does not believe that all flooring in the rental unit requires replacing. The landlord's agent didn't dispute the testimony of the first tenant who testified that the rental unit was not fit to live in and the tenants had to move into a temporary unit. It is clear to me that the rental unit required attention at the beginning of the tenancy and still does.

No one has provided a copy of the move-in condition inspection report and the tenant testified that the tenants were not provided with a copy. I have, however reviewed the tenancy agreement, and it's clear that a dishwasher is included in the rent.

In the circumstances, I am satisfied that the landlord should be ordered to make the following repairs to the rental unit, and I order the landlord to:

- repair or replace the kitchen floor,
- investigate and replace carpeting where required in order to ensure that no odors exist;
- repair or replace the ceiling above the stove;
- repair or replace the transition strip between the carpet and linoleum in the entry;
- repair or paint water stains on the ceiling;
- repair or replace the front steps;
- provide a dishwasher to the rental unit; and
- clean the rental unit or have it cleaned after the repairs are completed.

I also order that the above repairs be completed by October 15, 2015. If not completed by that time, the tenants will be at liberty to apply for a reduction in rent or other monetary compensation.

With respect to the tenants' application for emergency repairs, the *Act* specifies that emergency repairs are repairs that are necessary to protect life or property, and I am not satisfied that the tenants have established that.

Since the tenants have been partially successful with the application, the tenants are also entitled to recovery of the \$50.00 filing fee. I hereby order the tenants to reduce rent payable by that amount for a future month, or may otherwise recover it.

Conclusion

For the reasons set out above, I hereby order the landlord to make the following repairs to the rental unit by October 15, 2015:

- repair or replace the kitchen floor,
- investigate and replace carpeting where required in order to ensure that no odors exist;
- repair or replace the ceiling above the stove;
- repair or replace the transition strip between the carpet and linoleum in the entry;
- repair or paint water stains on the ceiling;
- repair or replace the front steps;
- provide a dishwasher to the rental unit; and
- clean the rental unit or have it cleaned after the repairs are completed.

If the landlord fails to do so, the tenants will be at liberty to apply for a reduction in rent or other monetary compensation.

I hereby grant a monetary order in favour of the tenants as against the landlord in the amount of \$50.00 pursuant to Section 67 of the *Residential Tenancy Act* as recovery of the filing fee. This amount may be deducted from a future month of rent payable or otherwise recovered.

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: September 16, 2015

Residential Tenancy Branch

