



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, RR, FF

Introduction

This hearing dealt with an application by the tenant for a repair order and an order allowing the tenant to reduce the rent for repairs, services and facilities agreed upon but not provided. Both parties acknowledged receipt of the other party's written evidence and submissions. Both parties testified with the assistance of a translator.

Issue(s) to be Decided

- Should a repair order be made and, if so, on what terms?
- Should the rent be reduced and, if so, in what amount?

Background and Evidence

This one year fixed term tenancy commenced August 1, 2015. The monthly rent of \$1200.00 is due on the first day of the month. The tenant paid a security deposit of \$600.00. Although the tenant looked at the unit twice before signing the tenancy agreement a formal move-in inspection was not conducted and a move-in condition inspection report was not completed. The tenant testified that when they looked at the unit the carpet appeared to be fine.

The rental unit is a one bedroom, 650 square foot apartment located on the ground floor of a concrete high rise building. Only the bedroom is carpeted. The building is seven years old and the landlord has owned the unit for five years.

The landlord testified that none of the previous tenants had pets nor did any of them complain about smells in the unit.

The unit had been empty for a couple of months before the start of this tenancy. The landlord testified that it was cleaned before the start of this tenancy.

When the tenant and his family moved in they did not think the carpet had been adequately cleaned. He contacted the landlord's agent. The landlord agreed to have a

cleaner come to the unit but the tenant said they would make their own arrangements, which they did. The carpet was cleaned on August 2.

The tenant testified that after the carpet was cleaned the room was very smelly. After letting the carpet dry they contacted the carpet cleaner again, who re-cleaned the carpet on August 10.

The tenant testified that the carpet cleaner told them the problem could be mold under the carpet. He is very concerned because they have a baby and they think the baby's respiratory health has been affected. He testified that when they are away for a while or it has been raining they can smell something.

The landlord's agent testified that she spoke to the carpet cleaner who said that he could not smell anything and he is not qualified to say whether there is mold present or not.

The carpet cleaner did not testify nor was any statement from him filed by either party.

At the tenant's request the landlord went to the unit on August 19 to check the situation. She testified that she could not smell anything. Apparently the tenant wanted her to get down and smell the carpet. She refused to do so because she is 77 years old and has health problems that make it difficult for her to kneel down.

Other than a written statement the tenant did not file any other evidence such as air quality test results; report from the baby's doctor, or carpet cleaner's invoice: in support of his claim.

Analysis

Any application the onus is on the application to prove their claim on a balance of probabilities.

In this case the only evidence before me is the conflicting statements of the parties. The tenant says the carpet smells; the landlord says it does not. The tenant says the carpet cleaner told him there could be mold under the carpet; the landlord's agent says the carpet cleaner told her he is not qualified to say whether mold is present or not. There is no reason for me to prefer the evidence of one party over the other and no independent evidence to tip the balance of probabilities in the tenant's favour. Accordingly, I must dismiss the tenant's application.

Because mold can represent a serious health issue, I am dismissing the tenant's application with leave to re-apply. I would advise the parties that proving the presence of mold required more than just a simple statement of belief or photographs of dark blotches on walls or floors. The better evidence is air quality test results obtained from a properly qualified technician and laboratory.

As the tenant was unsuccessful on this application no order for reimbursement of the filing fee will be made.

Conclusion

The tenant's application is dismissed with leave to re-apply.

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: October 30, 2015

Residential Tenancy Branch

