



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI RP MNDC

Introduction

This hearing was convened in response to an application by the tenant to dispute an additional rent increase, for repairs to the unit, compensation for outstanding repairs, and for the tenant to reduce rent in respect to repairs. The landlord cancelled their cross-application prior to this hearing.

Both parties participated in the hearing. The parties were given opportunity to resolve and settle their dispute to no avail. Each confirmed receiving the evidence of the other. Despite the parties submissions each acknowledged that only the evidence relevant to the application would be considered. Prior to concluding the hearing both parties acknowledged presented all of the relevant evidence they wished to present.

The parties acknowledged having an acrimonious relationship and it is clear the parties effectively utilize the Dispute Resolution process available to them. It must be known this tenancy has been the subject of previous hearings, of which this hearing is the fourth in less than a year - the second before this Arbitrator – and the tenant advised they are in midst of a future seventh hearing application.

Preliminary matters

The tenant stated they are not disputing an additional rent increase as applied, and that portion of their claim is preliminarily dismissed.

The tenant is seeking compensation for outstanding repairs claiming the landlord failed to make requested repairs during the tenancy. The hearing discussed this portion of the tenant's claim at the outset of the hearing. It was confirmed the tenant has not previously made application for the landlord to make repairs, an Arbitrator has not previously Ordered the landlord to make repairs to the unit, and the landlord has not breached an Arbitrator's Order to make repairs. In addition despite the abundance of evidence provided the tenant has not submitted document evidence respecting repairs

to which both parties had agreed would be provided and the landlord denied having agreed to certain previous repairs and that previous attempts at repairs became disputatious and abandoned. As a result I preliminarily dismissed the tenant's claim for compensation for outstanding repairs.

The hearing proceeded on the merits of the tenant's remaining application seeking the landlord make certain repairs.

Issue(s) to be Decided

Should the landlord be Ordered to make repairs to the unit?

Should the tenant be allowed to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

This tenancy started May 01, 2008.

The relevant testimony in this hearing is in respect to the tenant's claim for necessary and essential repairs to the unit as follows pursuant to Section 32 of the Act. The tenant seeks for the landlord to:

Repair or replace the bathroom vanity electrical wiring, as necessary, so as safe.

Reseal / replace the caulking / sealant at the bathtub and walls.

Repair / replace the grouting of the tiles surrounding the bathtub.

Replace the bathroom mirror.

Repair the compromised ceiling above the bathtub / shower.

Replace the kitchen countertop.

Reseal / re-attach the kitchen sink to the countertop.

Repaint the kitchen walls.

Repaint the bathroom walls.

Repair or replace the bedroom closet door(s).

Repair or replace the hall closet door handle.

The landlord testified they agreed to all of the above requests for repairs.

The tenant also seeks the landlord replace the kitchen floor linoleum as it is scratched and appears faded and “old”. The tenant argued it is difficult to keep clean. The landlord argued it simply requires cleaning. The landlord testified the linoleum was installed in 2007, therefore the landlord did not agree to its replacement. The tenant provided some photographs of the flooring which they claim depict scratches, burn marks, and discolouration.

The tenant also seeks the landlord provide pest control of mice and of ants. The tenant claims they have had mice in their unit in the past 6 months and have had ants. The tenant claims they were told by a pest control contractor mice control measures are best applied inside of all suites of the complex. The landlord testified they have not received complaints of mice from the tenant, and that their last contact with the tenant was that ants were not prevalent. Regardless of which, the landlord testified to, and provided evidence of existing services of a professional pest control contractor in respect to managing mice and are tasked to control mice on the residential property – and do so routinely. The landlord testified the pest control contractor is not tasked to control ants.

Analysis

The full text of the Act, Regulation, and Residential Tenancy Policy Guidelines, can be accessed via the website: www.gov.bc.ca/landlordtenant.

On preponderance of the relevant evidence before me I find the following.

Section 32 of the Act guides the tenant's and landlord's obligations in respect repairs.

Landlord and tenant obligations to repair and maintain

- 32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that
- (a) complies with the health, safety and housing standards required by law, and
 - (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.
- (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Residential Tenancy Act Regulation – Schedule; Repairs 8, in relevant part, states:

Repairs

8 (1) Landlord's obligations:

(a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant. The landlord must comply with health, safety and housing standards required by law.

(b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

In this matter, I find the above legislation effectively states a landlord is responsible to make repairs when a request for repairs is to ensure reasonable aesthetics, reasonable functioning or lawful compliance with health, safety and housing standards.

Residential Tenancy Policy Guidelines #37 addresses the useful life of **FINISHES – Flooring** as, generally, 10 years. I accept the landlord's claim the kitchen flooring is 9 years old. None the less, on balance of probabilities I find the tenant's claim for replacement of the kitchen flooring is not unreasonable given the floor's current life and current state.

Residential Tenancy Policy Guidelines - #1 – Landlord & Tenant – Responsibility for Residential Premises in relevant part states a landlord is responsible for pest control.

I find the tenant has made request for certain repairs and the landlord has agreed to make certain repairs.

As a result of all the above:

I Order the landlord to complete the following course of repairs - within 6 weeks following the date of this Decision.

- *Repair or replace the bathroom vanity electrical wiring, so as safe.*
- *Reseal / replace the caulking / sealant at the bathtub and walls.*
- *Repair / replace the grouting of the tiles surrounding the bathtub.*
- *Replace the bathroom mirror.*
- *Repair the compromised ceiling above the bathtub / shower.*
- *Replace the kitchen countertop.*
- *Reseal / re-attach the kitchen sink to the countertop.*
- *Repaint the kitchen walls.*
- *Repaint the bathroom walls.*
- *Repair or replace the bedroom closet door(s).*
- *Repair or replace the hall closet door handle.*

Replace the kitchen linoleum flooring

If the landlord does not comply with this Order the tenant may apply for compensation.

I find the landlord already has a professional pest control contractor in place to address the management of mice; therefore I make no Order in respect to the control of mice. I am not satisfied the landlord has tasked their contractor to address the control of ants. Therefore:

I Order the landlord to address the management of ants in the tenant's rental unit as reasonable in the discretion of their pest control professional including as to when it is done, and how it is done.

It must be noted it is available for the landlord to obtain confirmation from their pest control contractor of compliance with the above Order.

If the landlord does not comply with this Order the tenant may apply for compensation.

I find the following cannot be overstated.

The tenant wants the landlord to make repairs and the landlord now has a legal obligation to perform repairs. Given the parties' acrimonious relationship they were apprised during this hearing that the scope of the landlord's repair work will require a modicum of co-operation, reasonable accommodation and possible compromises by both parties, and they should endeavor to put relationship deficits aside to arrive at their common goal to achieve repairs.

Having Ordered the landlord to make repairs and having guided the remedy for non-compliance with the associated Order I find a reduction of rent is not warranted.

Conclusion

The tenant's application, in relevant part, is granted.

The landlord has been ordered to make the stated repairs.

This Decision is final and binding on both parties.

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: March 07, 2016

Residential Tenancy Branch