



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Blue Sky Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC RP

Introduction

This hearing dealt with the tenant's application for monetary compensation and an order for repairs. The tenant and two agents for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation?
Should I order the landlord to do repairs?

Background and Evidence

The tenancy began approximately three years ago. The tenant lives in an apartment on the third floor in a multi-dwelling building. The tenant stated that on February 6, 2016 at approximately 6:30 a.m. she was about to use the stairway on the right side of the building. The tenant stated that it was very dark so she tried to turn on her cell phone for light and turned to look for the handrail. There was no handrail, and she fell down a flight of stairs. The tenant stated that she had to be taken by ambulance to the hospital. The tenant submitted evidence showing that she sprained her ankle and was off work from February 6, 2016 to March 7, 2016. The tenant stated that she had to go to physiotherapy, but she had to stop going because she can no longer afford it.

The tenant stated that there was no sign warning tenants not to use the east stairway. The tenant stated that on many occasions prior to this incident, she had informed the manager about the burnt-out lights in the stairways. The tenant stated that sometimes tenants use the east stairs when it is raining hard and that exit is closer to their destination.

The tenant has claimed \$5,000.00 in monetary compensation for her injury and has also applied for an order that the landlord repair the lighting in the stairway.

The landlord responded that the lighting in the east stairwell is on a timer that is programed to go on and off relating to the anticipated sunsets and sunrises. The landlord stated that they check the lights every day and they are regularly inspected by an electrician. The landlord stated that the tenant lives on the far west side of the third floor and there is an exit five feet from her door.

Analysis

Upon consideration of the evidence I find it more likely than not that the tenant's injury occurred due to her own carelessness. The tenant decided to use the east stairwell on the date in question; however, she had already lived in the building for three years and stated that she was aware of lighting issues in the stairwells. It is not clear to me why the tenant chose to enter the stairwell after she saw that it was not lit. The tenant's accident and ensuing injury are unfortunate, but I find insufficient evidence of negligence on the part of the landlord.

The tenant did not provide sufficient evidence for me to make an order for repairs. If there are problems with the lighting or lack of a handrail, I remind the landlord that they are required to keep the building up to safety standards.

Conclusion

The tenant's application is dismissed.

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: April 29, 2016

Residential Tenancy Branch