



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capreit
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a rent reduction.

The hearing was conducted via teleconference and was attended by both tenants and an agent for the landlord.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a rent reduction, pursuant to Sections 32 and 65 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began on June 1, 2016 as a 1 year fixed term tenancy for a monthly rent of \$980.00 plus \$25.00 parking due on the 1st of each month with a security deposit of \$390.00 paid.

The tenants submitted that they had requested the landlord make a number of repairs and that the landlord had failed to do so within a reasonable time and had refused outright to make some of the requested repairs.

As a result the tenants seek compensation in the form of a rent reduction for the month of June 2016. In support of their claim the tenants have submitted several photographs including one of a letter addressed to the landlord and dated June 9, 2016.

The letter specifically identifies a number of repairs and renovations requested by the tenants and it gives the landlord until June 14, 2016 to complete the request or they will seek a rent reduction from the Residential Tenancy Branch.

The repairs requested include: repairs to the kitchen sink; counter top replacement; painting of kitchen cabinets; doors on all closets; oven to be replaced; shelves for linen closet; light fixture replacement in the bathroom; and replacement of the tub surround.

The tenants also submitted into evidence of a copy of the landlord's response dated June 10, 2016. In this letter the landlord informs the tenants that they will not provide a new tub surround; countertops; light fixtures; or paint.

The letter goes on to state that the items noted were in “fine usable condition and do not need to be replaced”. It also states that no promises were either offered or granted prior to agreeing to the tenancy and that the unit had just received new flooring; paint; toilet and blinds and that an oven had been ordered and would be replaced as soon as it arrived.

Additional photographs include various parts of the rental unit sometime after the tenants moved in to it. Neither party provided a copy of a Condition Inspection Report that might have been completed at the start of the tenancy.

The tenants seek a rent reduction in the amount of \$577.00 broken down as follows:

Description	Amount
Cleaning “fees” – oven & fan; bathroom; general cleanliness	\$80.00
Restricted use of oven – going out to eat	\$100.00
“Missing” repairs – oven/fan; state of repair of the whole kitchen; wasp nest; bi-fold doors; missing blinds; missing shelves; broken window; no smoke detector; leaking sink; and major mould and fungus problem	\$245.00
Printing “fees” – printing evidence and photos	\$52.00
Application for Dispute Resolution filing fee	\$100.00
Total	\$577.00

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the Act, regulation or tenancy agreement;
3. The value of the damage or loss; and
4. Steps taken, if any, to mitigate the damage or loss.

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

When two parties enter into a tenancy agreement each party has their own respective interests to consider. I find it reasonable to expect that generally, a person looking to be a tenant, would view the rental accommodation and be satisfied with the unit and its condition prior to attempting to negotiate a tenancy agreement.

I also find it reasonable that if there were deficiencies the potential tenant would negotiate with the landlord to ensure any issues or problems were either dealt with or the amount of rent agreed reflected consideration of the issues.

The tenants have provided no evidence that any agreements were entered into by the parties as part of accepting the tenancy that would require the landlord to correct or repair any

deficiencies. In fact, the only documentary evidence in this regard is the landlord's letter of June 10, 2016 that states no promises were made.

Despite my findings above, I also find it reasonable that once a tenant moves into a rental unit other deficiencies may be discovered and identified to the landlord for consideration to be repaired or renovated. However, I note that this does not automatically obligate the landlord to make a repair simply because the tenant requests it.

In the case before me, I accept that the tenants had identified a number of items that they considered deficiencies that they wanted repaired after the start of the tenancy. I find that in all of the cases identified in the hearing by the parties and the tenants' evidence that landlord has responded within a reasonable time to either have the deficiency resolved or to decline to make the repair.

I find that in each of the declined repairs the tenants have failed to provide sufficient evidence that they were not aware of the condition when they agreed to the tenancy and as I have found there is no evidence of any promises made in regard to these items prior to entering into the agreement I find the landlords were not obligated, at all principal times, to make any of the following repairs: tub surround; countertops; light fixtures; or paint.

I also find that for any of the remaining repairs and cleaning requested the tenants have failed to provide any evidence of the condition of the unit at the start of the tenancy such as a Condition Inspection Report and as such, I cannot determine whether the repairs or cleaning needs are a result of the tenant's actions or the condition at the start of the tenancy.

Therefore, I find the tenants have failed to establish the landlord is in breach or violation of the *Act*, regulation, or tenancy agreement. As a result, I find the tenants are not entitled to compensation.

Conclusion

Based on the above, I dismiss the tenants' Application for Dispute Resolution without leave to reapply.

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: August 19, 2016

Residential Tenancy Branch

