



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, RP, O, FF

Introduction

This hearing dealt with an application by the tenants for a repair order and an order reducing the rent. Both parties appeared and gave affirmed evidence. No issues regarding the exchange of evidence between the parties were identified.

As part of their evidence the tenants had submitted some photographs. All I received was faxed black and white copies. I advised the tenants that my copies were merely unintelligible black and white blobs. I gave them leave to send in the original photographs and advised the parties that I would not render a decision until I had the original photographs. The landlord confirmed that the copies she had received were legible and it would not be necessary for the tenants to reserve her. The photographs were received by my office on December 16, 2016.

Issue(s) to be Decided

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

Background and Evidence

This tenancy commenced in 2004 when one of the tenants moved in at the end of October of that year. The current landlord subsequently bought the building and a new tenancy agreement was signed by the new landlord and the tenant. The second tenant moved in some time later. The current monthly rent is \$1095.00 and includes utilities.

The rental unit is one of four apartments in a two up, two down fourplex. The building probably dates from the 1970's. The tenants' unit is located on the ground floor. Both parties estimated its' size at about 800 square feet. The parties described an open living room, dining room, kitchen and hallway. The two bedrooms and one bathroom are in a separate, more closed off area.

The unit has textured ceiling in all rooms except the bathroom and laundry. No one was able to say whether the ceiling had been painted prior to the floods.

There were two floods at the end of 2012 and beginning of 2013 that caused damage to the unit. In the first one a pipe burst upstairs and water leaked through the ceiling, onto the walls and carpet. This resulted in five to eight small flaking and discoloured patches in the ceiling. The largest of these was the size of a soccer ball. IN addition, some spider cracks appeared.

The second flood occurred when a washing machine overflowed. A problem with the drain resulted in water in the unit and damage to the carpets.

After the flood all of the carpet, except for the carpet in the bedrooms and part of the living room carpet was removed. The tenants subsequently removed more of the carpet in the living room. There was just bare concrete below the carpet.

At the time the tenants had a new puppy and they did not want the puppy doing its' business on new carpets. They later got another dog. The tenants were quite satisfied to live with the floors in this condition because of the dogs. They never applied to the Residential Tenancy Branch for a repair order.

The other consequence of the floods was the total break-down of the relationship between the property manager and the tenants. The only way to describe the relationship is hostile. The tenants refuse to allow the property manager into the unit but they will allow her employees in.

Access has been an issue throughout this tenancy. The tenants take the position that they are entitled to be present whenever the landlord, his representatives or tradespeople attend the unit. Although this is contrary to section 29 of the *Residential Tenancy Act* they have achieved that result because they have two large dogs and, according to the property manager, no one wants to go in the unit with the dogs unless their owners are there.

On March 23 one of the property manager's employees inspected the unit and advised the tenants that the carpet was going to be replaced and the ceiling repaired. A painter was at the unit in April to look at the job.

After not hearing anything else for a few months the tenants made a formal request for the repairs in an e-mail dated August 1, 2016. There followed a chippy, bordering on hostile exchange, about access.

Eventually the painter came to the unit on September 20. The painter scraped the loose texture off in six different spots, each eight to ten square feet in area. He tried to apply new texture but was only using an aerosol can and was unsuccessful. He painted the whole ceiling – flat and textured surfaces – with white ceiling paint. According to the tenants, the two different surfaces took the paint separately leaving two different colours on the ceiling.

On September 29 the tenants sent the landlord an e-mail complaining about the ceiling repair. They stated that they:

“were told by the worker that [the property manager] told them only to scrape the peeling bits and to paint over it and leave it. The worker then apologized and told us they were only hired to do this much and not to finish the rest, but felt bad leaving it in the state it was in.”

The e-mail closed with many complaints about how the property manager did her job.

The next day the property manager responded that:

“We were advised by the painters that the ceiling, when originally installed years ago, was not properly prepared for the spackle surface that is on it. That is why it came off so easily when it became wet. We are advised that there is not a realistic solution for this now. Either the entire ceiling would have to be removed, or all of the remaining spackle would have to be scraped off which would be very labour intensive, messy and disruptive. It is hard to imagine that the ceiling now looks worse than before – before it had missing spackle and water stains; now it is missing spackle but fresh paint and no stains.”

The landlord filed an e-mail dated October 20 from the painting company that provides the following information:

“You would need someone who does textured ceilings to come in and completely re-spray the ceiling. We tried to do it with spray cans of texture but they’re made for small areas of about 1 ft. The reason the ceiling came off so heavily is that they never primed the drywall so the popcorn texture wasn’t bonded properly to it. Over time it just began to fail and pull away.

The ceiling is now repaired in the sense that the falling texture was removed and there is paint properly bonded to the drywall. However, to get to their aesthetic tastes you would need someone with a texture sprayer to respray the ceiling now that it is scraped and primed/painted.”

The carpets were replaced in October.

The tenants say that the ceiling looks worse than before and they would like it repaired. They also say that if they had known that this would be the end result they would never have agreed to the ceiling repair. The landlord argues that the condition of the ceiling complies with the standard set by section 32(1).

Analysis

Section 32(1) of the *Residential Tenancy Act* states that a 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, makes it suitable for occupation by a tenant.

The legal standard is not perfection or even esthetically pleasing. Further, it is not a uniform standard. It is a standard that includes a calculation for the age, character and location of the rental unit.

The photographs submitted by the tenant show a ceiling that is a random patchwork of textures but a uniform colour. There is no evidence that suggests that the functionality of the ceiling has been changed by this recent renovation.

I find that this ceiling, although not as attractive as a ceiling with a uniform texture, does comply with the standard of section 32(1) and in particular, does not make the unit unsuitable for occupation by a tenant. No repair order will be made.

Section 65(1) allows an arbitrator who has found that a landlord has not complied with the Act, regulation or tenancy agreement to order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of the tenancy agreement.

The first formal request for repairs was not made until August first and the repairs were completed by October. This is a reasonable time period.

As the repairs meet the standard of the legislation and were completed within a reasonable time of being requested, I find that the landlord has complied with the Act, regulation, or tenancy agreement and the request for a rent reduction must be dismissed.

Conclusion

For the reasons set out above, the tenants' 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: December 21, 2016

Residential Tenancy Branch