



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes RP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order to the landlord to make repairs or emergency repairs to the rental unit pursuant to section 32 and 33 of the Act;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to service of the respective evidence submissions on file.

Issue(s)

Should the landlord be ordered to make the requested repairs?

Background and Evidence

The rental unit is a bachelor suite on the top floor of a 21 floor, 220 unit apartment building. The tenancy began on June 1, 2015. The rental building is operated by a non-profit.

The tenant is requesting the landlord install bird spikes outside the ledge of his window to prevent pigeons from perching and sleeping there. The tenant submits that his window does not open so he can't access the area himself from the inside so the spikes would need to be installed from the outside. The tenant submits there are pigeon droppings all over the ledge and they are very noisy in the middle of the night. The unit is a bachelor suite so his bed is only a couple feet away from this window.

The landlord submits the window outside which the pigeons are perched does not open and is double glazed reducing noise. As the window does not open, spikes cannot be

installed from the inside. Accessing the area from the outside would be a huge expense. No other tenants in the building have complained about the pigeon issue. The landlord deals with any pest control issues within the building immediately however this is an issue on the exterior of the building. The landlord submits that this is not an issue of repair or maintenance.

Analysis

Subsection 32(1) of the Act requires a landlord to 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 the tenant.

I find the tenant has submitted insufficient evidence that the landlord has failed to maintain the rental property in a state of decoration and repair that complies with the health, safety and housing standards required by law. I find the existence of the pigeons outside the tenants rental unit is more of a nuisance than a matter requiring repair.

Conclusion

The tenant's application is dismissed 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: January 05, 2018

Residential Tenancy Branch