



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding CASCADIA APARTMENTS LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP

Introduction

This is an application by the tenant under the *Residential Tenancy Act (the Act)* for the following:

- An order requiring the landlord to provide repairs pursuant to section 32 of the *Act*.

The tenant attended. EM and MH appeared as agents for the landlord ("the landlord"). Both parties had the opportunity to provide affirmed testimony, submit evidence and cross-examine the other party.

Preliminary Issue

The landlord objected to consideration of photographs filed by the tenant the day before the hearing. The landlord denied receipt of the photographs in time to consider them for the hearing. Accordingly, I exclude these photographs from the admissible evidence.

Service

Except for the above-mentioned photographs, the landlord acknowledged receipt of the tenant's Notice of Hearing and Application for Dispute Resolution; the landlord did not raise further issues of service. I find the tenant served the landlord with these documents pursuant to the *Act*.

Issue(s) to be Decided

Is the tenant entitled to:

- An order requiring the landlord to provide repairs pursuant to section 32 of the *Act*.

Background and Evidence

The tenant provided evidence that her month-to-month tenancy with the landlord began on March 1, 2000. The tenant pays rent of \$1,050.00 a month payable on the first of the month.

The tenant filed photographs and documents purporting to show that the landlord has not sufficiently maintained the exterior walls of the apartment building in which the tenant resided. The exterior walls consist primarily of cedar siding with areas of concrete, such as at the base of the walls and in the exterior stairwell. I refer to both the concrete exterior walls and the cedar siding herein as the “exterior walls”.

The landlord provided no documentary evidence.

The tenant testified as follows. The paint in much of the cedar siding is peeling, bubbled and unsightly. Stains darken or blacken portions of the concrete. Vegetation and mold are growing on the exterior walls. The walls require power washing and/or painting. The problem has escalated in the past 5-7 years as the condition of the exterior walls has continued to deteriorate. The tenant has complained to the landlord on many occasions about the condition of the exterior walls to little avail. The landlord promised to correct the problem on many occasions but claims there is no budget for the work, or that the building does not need the repairs. The landlord has made inadequate insufficient and ineffectual efforts to improve the aesthetics of the exterior walls. The exterior walls are unattractive and visually unsightly.

The tenant testified the condition of the exterior walls does not affect her unit. However, she finds the condition distressing and unnecessary.

The tenant alleged the landlord is in violation of City bylaws, which the landlord denied. The landlord stated they had received a list of non-compliance items from the City and had since entered compliance with respect to all issues.

Without submitting any photographic or documentary evidence, the landlord denied that the pictures submitted by the tenant are reflective of the current situation. They stated the pictures illustrated isolated conditions which are not illustrative of the entire exterior walls. They stated the landlord has conducted maintenance after the date of the photographs.

Analysis

The tenant submitted considerable documentary evidence. Both parties gave lengthy oral evidence. I will not refer in my decision to all the evidence, but only to selected, relevant portions.

Section 32 addresses the landlord's obligations to repair and maintain, as follows:

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.

Policy Guideline # 1 – Landlord & Tenant – Responsibility for Residential Premises provides a statement of the policy intent of the *Act*. It states as follows:

The Landlord is responsible for ensuring that rental units and property, or manufactured home sites and parks, meet “health, safety and housing standards” established by law, and are reasonably suitable for occupation given the nature and location of the property.

The tenant's application concerns the exterior of the apartment building in which her unit is located and relates only to the aesthetics. She claimed the exterior walls are unsightly and visually unappealing. The tenant does not claim that the residential property does not meet “health, safety and housing standards” or that it is not “reasonably suitable” for occupation. The tenant does not claim that the unsightliness affected her unit.

The tenant must establish her claim on a balance of probabilities. This means, that something is more likely than not to be true.

I find the tenant's claim fails to meet the burden of proof required. I find that the tenant has failed to establish on a balance of probabilities that the residential property does not comply with the health, safety and housing standards required by law. I find the tenant has failed to establish on a balance of probabilities that the condition of the exterior of the building is unsuitable for occupation by a tenant.

Accordingly, I dismiss the tenant's claim without leave to reapply.

Conclusion

I dismiss the tenant's claim 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: March 14, 2019

Residential Tenancy Branch