



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, DRI, FFT

Introduction

This hearing was scheduled to deal with a tenant's application to dispute a rent increase and obtain orders for repairs. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

At the outset of the hearing, I confirmed the tenant served his hearing package and photographic evidence upon the landlord.

I noted that the tenant sought to dispute a rent increase; however, I was not provided a copy of a Notice of Rent Increase or any other documentation pertaining to a rent increase. The tenant orally described a Notice of Rent Increase set to take effect in August 2019 and confirmed that the rent increase does not exceed 2.5%. Where a landlord serves a valid Notice of Rent Increase for an amount that does not exceed the allowable amount, section 43 of the Act provides that a tenant may not dispute the rent increase. Based on what the tenant described, I was satisfied the Notice of Rent Increase complies with the Act and I dismissed the tenant's request to dispute the rent increase. Accordingly, the remainder of the hearing dealt with the tenant's request for repair orders.

Issue(s) to be Decided

Is it necessary and appropriate to issue orders for repairs and maintenance?

Background and Evidence

The tenancy has been in effect for approximately 16 years. The tenant is seeking to have the following repairs made:

1. Painting in the living room and hallway leading to common area.
2. The carpeting replaced in the living room and stairs.
3. New curtains on the living room window.

The landlord was agreeable to painting and replacing the carpet but pointed out the tenant must remove his possessions from the areas described above. The tenant acknowledged he is responsible for removing his personal possessions from these areas and that he will be able to do so with three (3) weeks of advance notice. The landlord stated that he has to first contact contractors and determine their availability before giving the tenant a day for the work to commence.

As for the curtains, the landlord enquired as to whether they could be washed. The tenant responded that they are very old, water stained and frayed and that washing them would result in them falling apart. The landlord stated that he would rather not install new curtains until the painting is completed.

Analysis

Section 32 of the Act provides for obligations and a landlord and tenant to repair and maintain a property. Section 32 provides as follows:

Landlord and tenant obligations to repair and maintain

- 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.
- (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

[My emphasis underlined]

Residential Tenancy Policy Guideline 1: *Landlord & Tenant – Responsibility for Residential Premises* provides, in part:

The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the Residential Tenancy Act or Manufactured Home Park Tenancy Act (the Legislation).

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

PAINTING

The landlord is responsible for painting the interior of the rental unit at reasonable intervals.

CARPETS

1. At the beginning of the tenancy the landlord is expected to provide the tenant with clean carpets in a reasonable state of repair.

INTERNAL WINDOW COVERINGS

1. If window coverings are provided at the beginning of the tenancy they must be clean and in a reasonable state of repair.

[My emphasis underlined]

Residential Tenancy Policy guideline 40: *Useful Life of Building Elements* provides for the average useful life of various building elements. The policy guideline provides that interior painting has an average useful life of 4 years; and, carpeting and interior window coverings have an average useful life of 10 years.

Considering this tenancy has been approximately 16 years in duration, and the paint, carpets and window coverings at least that old, I find it likely that, due to age and wear and tear, the paint, window coverings and carpeting in this rental unit have surpassed their useful life and are in need of replacement. Therefore, I find the tenant entitled to orders for repairs and maintenance.

The landlord was agreeable to making repairs but requires the tenant to remove his possessions from the affected areas. I am also of the view that the tenant is responsible for dealing with his possessions by moving them out of the areas that are the subject of the repair orders. The tenant was agreeable to doing so with three weeks of advance notice so that he may rent a storage unit and move his possessions into it and I find that request to be reasonable.

In light of the above, I issue the following orders:

1. Without delay, the landlord is to make arrangements for the unit to be repainted and the carpeting replaced in the living room, stairs and hallway leading to the common area.
2. Upon determining the date(s) the painting and carpet contractors will be attending the rental unit to paint the unit, including any preparation of the walls, and removing and installing carpet, the landlord shall give the tenant notice of such. The landlord must give the tenant no less than three (3) weeks of advance notice so that he may remove his possessions from the affected areas.
3. The tenant must ensure and is responsible for removing his personal possessions from the areas that will be repainted and carpeting replaced.
4. As soon as possible after the rental unit is repainted the landlord shall install new curtains in the living room.

The tenant was partially successful in this application and I award the tenant recovery of \$50.00 of the filing fee he paid for this application. The tenant is authorized to deduct \$50.00 from a subsequent month's rent to satisfy this award.

Conclusion

I have issued orders to both parties with respect to making repairs and maintenance to the property.

The tenant's request to dispute a rent increase has been dismissed.

The tenant has been authorized to deduct \$50.00 from a subsequent month's rent to recover one-half of the filing fee paid for this application.

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: June 07, 2019

Residential Tenancy Branch