



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, MNDCT, LRE

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for regular repairs to the unit, site or property, for a monetary claim of \$4,312.82 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and for an order limiting the landlord's right to enter the rental unit, site or property.

The tenant, a tenant advocate EN (advocate), the landlord, an agent for the landlord DD (agent), and a witness for the landlord PD (witness) attended the teleconference hearing and gave affirmed testimony. The hearing process was explained to the parties and an opportunity to ask questions was provided to the parties. Expectations regarding conduct were also explained to the parties.

The landlord confirmed having been served with documentary evidence from the tenant and that they had the opportunity to review that evidence before the hearing. Although the tenant testified that they were not served with any documentary evidence from the landlord prior to the hearing, I do not find the landlord's documentary evidence to be of significant weight as the landlord testified to the matters described in this decision, and the burden of proof is on the tenant and not the landlord, which I will address later in this decision.

Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on their application, the most urgent of which is the application for repairs to the unit, site or property relating to dead rats/maggots, the carpets and a secondary access door. I find that not all the

claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request for repairs as described above, which were listed on the application. The balance of the tenant's application is dismissed, **with leave to re-apply**.

Issue to be Decided

- Should the landlord be directed to make repairs to the unit, site or property under the Act?

Background and Evidence

The parties agreed on the following facts during the hearing:

1. The tenancy began on June 1, 2019.
2. At the time of the hearing, the tenant confirmed that the dead rats, rat feces and maggots are no longer inside the rental unit as of the date of the hearing, February 3, 2020.

Regarding the carpet repairs, the tenant claims the carpets are approximately 20 years old and need of replacement. The tenant only provided a few photos of the carpets, most of which are too dark to hold any weight, and of which, show maggots and rat feces, which the tenant confirmed are no longer in the rental unit. The landlord did not deny the age of the carpets during the hearing.

Regarding the secondary access doors, the tenant testified that the patio door does not lock and does not have a handle. Regarding the second patio access door, the tenant testified that the deadbolt does not unlock and there was no key provided by the landlord. The landlord did not deny that the deadbolt opens properly or that a key was provided to the tenant. The landlord stated that the patio door used to lock and previously had a handle.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the tenant to prove the existence of the damage/loss and that it stemmed directly from a violation of the Act, regulation, or tenancy agreement on the part of the landlord. Once that has been established, the tenant must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the tenant did what is reasonable to minimize the damage or losses that were incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Dead rats and maggots – I accept the undisputed testimony of the tenant that as of the date of the hearing, February 3, 2020, there are no longer dead rats, feces or maggots inside the rental unit. As a result, I find that this matter is now moot, and does not require an order for repairs.

Carpets – I am not satisfied based on the photo evidence, that the tenant has provided sufficient evidence to support that the carpets at the start of the tenancy were not in a reasonable state of repair. I find that most photos provided by the tenant were too dark to be afforded any weight, and that the bedroom photo showed what I find to be reasonably clean carpets. I also note that the tenancy began on June 1, 2019, which is only eight months prior to this hearing. Therefore, I find the tenant has not met the burden of proof for the replacement of carpets. Secondly, RTB Policy Guideline 1 – Landlord & Tenant – Responsibility for Residential Premises (Policy Guideline 1) indicates for carpets the following:

2. The landlord is not expected to clean carpets during a tenancy, unless something unusual happens, like a water leak or flooding, which is not caused by the tenant.
3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

Given the above, I find the tenant is responsible for cleaning the carpets and provided insufficient evidence during the hearing that they have done so.

Secondary doors on patio – Given the evidence from the parties, and the photo evidence of the patio door and the second access door from the patio, which the parties confirmed had stairs leading to the ground below, I find the following. Policy Guideline 1 under Security applies and states:

6. The landlord is responsible for providing and maintaining adequate locks or locking devices on all exterior doors and windows of a residential premises provided however that where such locks or locking devices are damaged by the actions of the tenant or a person permitted on the premises by the tenant, then the tenant shall be responsible for the cost of repairs.

[Emphasis added]

Based on the above, and given that I find the landlord has provided no evidence to support that the tenant damaged the patio access doors, I make the following orders pursuant to section 62(3) of the Act:

1. **I ORDER** the landlord to inspect the patio door to ensure there is a handle and patio door lock functioning on **February 10, 2020 at 1:00 p.m.**
2. **I ORDER** if the landlord determines with input from the tenant that there is no handle or patio door lock that is functioning as per #1 above, that the landlord directed at their own cost to have a patio door handle and lock installed and functioning no later than **February 17, 2020 by 5:00 p.m.**
3. **I ORDER** on February 10, 2020 at 1:00 p.m. that the second patio access door that has the deadbolt be inspected and that all locks are functioning and that the tenant have at least one key to all locks to the access doors.
4. **I ORDER** that in addition to #3 above, if either patio door is not functioning by **February 17, 2020 by 5:00 p.m.** the tenant may apply for a rent reduction under the Act and supply a copy of this decision into evidence.

Conclusion

I find the tenants request related to the repair associated with dead rats/rat feces/maggots to be moot and is dismissed.

I find the tenants request related to the repair associated with the carpets to be dismissed due to insufficient evidence, without leave to reapply.

I have made the above-noted orders regarding the secondary access doors.

This decision will be emailed to the tenant and sent by regular mail to the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 3, 2020

Residential Tenancy Branch