



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, RP, and RR

Introduction

This hearing was scheduled in response to the Tenants' Application for Dispute Resolution, in which the Tenants made application for an Order requiring the Landlord to make repairs to the rental unit; for authorization to reduce rent for repairs, services or facilities agreed upon but not provided; for authorization to reduce rent for repairs, services, and facilities agreed upon but not provided; and a monetary Order for money owed or compensation for damage or loss.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask questions, and to make relevant submissions to me.

Issue(s) to be Decided

This hearing dealt with an application by the Tenants for an order requiring the Landlord to make repairs to the rental unit. Specifically the Tenants are requesting that the Landlord be ordered to paint a portion of the rental unit, to replace the carpets, and to repair cabinets in the rental unit. The hearing also dealt with an application by the Tenants for financial compensation for living in the rental unit while it required the aforementioned repairs.

Background and Evidence

The Agent for the Landlord and the Tenants agree that this tenancy began on April 01, 2005, that the monthly rent at the beginning of the tenancy was \$725.00, and that current monthly rent is \$767.00.

Both Tenants stated that the roof in this residential complex had leaked prior to their tenancy, which had damaged the ceiling and some walls in their rental unit. They stated that when they moved into the rental unit they were told that the roof would be repaired as soon as the weather improved, at which time the areas that had been impacted by the leaking roof would be repaired and painted. The female Tenant stated that only the

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ceilings and walls in the living room, dining room, and hallway needed to be painted, as the other rooms had previously been painted.

The Agent for the Landlord stated that he was not working as an Agent for the Landlord when this tenancy began. He stated that there may have been an agreement between the Tenants and the previous manager, but he was not aware of any such agreement.

The Agent for the Landlord and the Tenants agree that the water damaged areas have yet to be repaired and painted. The Tenants submitted documentation that indicates they have made several written requests to have the areas painted, beginning on March 23, 2006. The Tenants submitted several photographs that show staining and cracking on walls and ceilings in the rental unit that are consistent with water damage.

The male Landlord stated that the carpets in the rental unit are stained and in need of replacement. He acknowledged that the carpets were stained and in poor condition at the beginning of their tenancy. He stated that the agent acting for the Landlord at the beginning of this tenancy advised him that he would need to submit a request for repairs before repairs to the rental unit would be made. He acknowledged that the agent for the Landlord did not specifically advise him that the carpets would be replaced when this tenancy began. The Tenants submitted two photographs of the carpets, on which some minor stains are depicted.

The Agent for the Landlord stated that the rental unit was rented in an “as is” condition and he contends that the Landlord is under no obligation to replace the carpets.

The male Landlord stated that the cabinets in rental unit are in need of repair or replacement. He acknowledged that the cabinets were in poor condition at the beginning of this tenancy. He stated that the agent acting for the Landlord at the beginning of this tenancy advised him that he would need to submit a request for repairs before repairs to the rental unit would be made. He acknowledged that the agent for the Landlord did not specifically advise him that the cabinets would be repaired and refused to provide him with anything in writing regarding future repairs.

The Tenants submitted photographs of the cabinets, which depict cabinets that are in need of some repairs.

The Agent for the Landlord stated that the rental unit was rented in an “as is” condition and he contends that the Landlord is under no obligation to replace or repair the cabinets.

Analysis

In the absence of evidence to the contrary, I accept that the person who was acting as an agent for the Landlord at the beginning of this tenancy told the Tenants that the rental unit would be painted after the leak in the roof had been repaired. I find this statement to be entirely credible, as it would be a reasonable and logical agreement to be made when tenants were moving into a rental unit that had suffered water damage, particularly when the roof had not yet been repaired.

I find that repairing the walls/ceilings that had been damaged by water was a term of this tenancy agreement that has not yet been fulfilled by the Landlord. I therefore find that the Landlord is obligated to fill this term of the tenancy agreement.

I find that the failure to paint the subject areas has not greatly reduced the value of this tenancy. I based this conclusion on the photographs provided by the Tenant, which indicates that the need to paint is entirely cosmetic and has not impacted the Tenants' ability to live comfortably in the rental unit. I do find, however, that the Tenants should be entitled to nominal compensation, in the amount of \$100.00, for the inconvenience of having to live with unpainted walls since the beginning of this tenancy.

I find that the Tenants have submitted no evidence to establish that the Landlord agreed to replace the carpets in the rental unit at the time the parties entered into the tenancy agreement. As there was no agreement to replace the carpets, I find that the Landlord is under no obligation to replace the carpets, providing they comply with health, safety and housing standards required by law and that, having regard to the age, character, and location of the rental unit, they do not render the suite unsuitable for occupation.

I find that there is insufficient evidence to show that the carpets do not comply with health, safety and housing standards required by law or that, having regard to the age, character, and location of the rental unit, they render the suite unsuitable for occupation. I therefore dismiss the Tenants' application for an Order requiring the Landlord to replace the carpets in the rental unit.

I find that the Tenants have submitted no evidence to establish that the Landlord agreed to repair or replace the cabinets in the rental unit. As there was no agreement to replace or repair the cabinets, I find that the Landlord is under no obligation to replace or repair them, providing they comply with health, safety and housing standards required by law and that, having regard to the age, character, and location of the rental unit, the cabinets do not render the suite unsuitable for occupation.

I find that there is insufficient evidence to show that the cabinets do not comply with health, safety and housing standards required by law or that, having regard to the age,



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character, and location of the rental unit, they render the suite unsuitable for occupation. I therefore dismiss the Tenants' application for an Order requiring the Landlord to replace or repair the cabinets in the rental unit.

Conclusion

I hereby Order the Landlord to paint the ceilings and walls in the living room, dining room, and hallway prior to August 30, 2009. In the event that these areas are not painted prior to August 30, 2009, I hereby authorize the Tenants to reduce their September rent payment by \$10.00, and to continue to reduce their monthly rent payment by \$10.00 until such time as the areas have been painted.

I hereby authorize the Tenants to reduce their rent payment on August 01, 2009 by \$100.00 in compensation for having lived in this rental unit without the painting that was agreed upon at the beginning of the tenancy.

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 11, 2009.

Dispute Resolution Officer