



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking an order requiring the landlord to make repairs to the rental unit and to recover the filing fee.

The hearing process was explained to the parties. Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and each to the other and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Are the tenants entitled to an order requiring the landlord to make repairs to the rental unit and to recover the filing fee?

Background and Evidence

This one year, fixed term tenancy began July 1, 2011, monthly rent is \$735.00 and the tenants paid a security deposit and pet damage deposit of \$367.50 each on or about June 30, 2011.

In support of their application seeking a repair order, the tenants testified that since moving into the rental unit, they have not had a fully functioning stove. The tenant testified that she reported the problem to the landlord's agent, who replaced the stove/oven. The tenant submitted that the replacement stove did not work properly, which was told to the landlord's agent.

According to the tenant, the landlord attempted to replace the second stove, but she did not trust that the next stove would work, and refused the stove to be installed.

The tenant stated that she wanted to use her own stove, but the landlord did not allow this.

The tenant submitted that she finally allowed acceptance of the third stove, but that it is not working properly.

The tenant has not allowed the landlord access to her rental unit to check on the stove.

Another issue concerning repairs, according to the tenant, is the elevator. The tenant testified that the elevator is not functioning properly most of the time, with the elevator stopping as much as 3" from the floor leading to and from the elevator. The tenant submitted that due to this, the male tenant, who is in a motorized wheelchair, cannot properly exit or enter the rental unit without damaging the wheelchair or requiring assistance to come off the elevator.

The tenant stated that she is also still waiting for a copy of the tenancy agreement and move in condition inspection report.

In response, the landlord's agent testified they have responded to the tenants' request to repair the stove each time a complaint has been made. The landlord's agent further stated that the stove has been certified by the appliance technician from the local appliance store to be in good working order.

The landlord's agent stated that they have now been refused access to the rental unit by the tenant to attempt further repair, but expressed another attempt could be made the next work day following the hearing, if allowed access.

The landlord's agent further submitted that the tenant's complaints about the elevator has been addressed each time, but that the elevator system is 30 years old, works on a brake system, and does require periodic adjusting, depending on the amount of weight on the elevator. The landlord's agent testified that the elevator technician is called out to adjust the elevator upon receipt of a complaint, but that the only other solution to the problem is installation of a new elevator system.

The landlord's agent stated that he understands this is a serious problem for the tenants, and suggested during the hearing that the tenants could be allowed out of the fixed term tenancy.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 32 of the Residential Tenancy Act (the "Act") requires the landlord to provide and maintain a 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 a tenant.

Based upon the evidence and testimony before me, I find the landlord to have been responsive and diligent to the tenants' repair requests and that it has been the actions of the tenants who have prevented the landlord from completing the repairs to the stove/oven.

As to the issue of the elevator, the tenants accepted a rental unit in a building with a 30 year old elevator which works on a brake system. I also find that the landlord has been responsive to the tenants' complaints concerning the elevator by having the elevator adjusted each time. I therefore find that the landlord does maintain the residential property complying with the standards required by law.

Due to the above, I find that the tenants have submitted insufficient proof that they are entitled to an order requiring the landlord to make repairs.

I therefore **dismiss** the tenants' application, **without leave to reapply**.

As I have dismissed the tenants' application, I decline to award them recovery of their filing fee.

Conclusion

The tenants' 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: October 25, 2011.

Residential Tenancy Branch