

## **INTERIM DECISION**

Dispute Codes      RP RR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to Obtain an Order to have the Landlord make repairs to the unit or to allow the Tenant a reduction in rent to pay for the required repairs.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, served by the Tenant to the Landlord's office on approximately July 22, 2009. The Landlord confirmed receipt of the hearing package.

The Landlord, Landlord's Counsel, the Tenant, and the Tenant's advocate appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross exam each other.

All of the testimony and documentary evidence was carefully considered.

### Issues(s) to be Decided

Is the Tenant entitled to an Order under sections 32 and 65 of the *Residential Tenancy Act*?

### Background and Evidence

The month to month tenancy began on approximately September 1, 1990 and rent is payable on the first of each month in the amount of \$288.95.

The Tenant testified that she has lived in the rental unit for over nineteen years, that the carpet in the rental unit was already old at the time she moved in, and that she estimates the carpet to be around twenty four or twenty five years old. The Tenant and her advocate argued that the carpet now poses as a health risk because despite having the carpet professionally cleaned it creates dirt and dust and now has numerous ripples which could cause the Tenant to trip and fall.

The Tenant's advocate testified that the carpet was stretched approximately ten years ago and the bedroom carpet was replaced a few years ago because of a mould issue.

The Tenant argued that approximately four or five years ago she had requested, on two separate occasions, that the carpet be replaced and the Landlord replied by saying "I won't be replacing it." The Tenant stated that she put her request in writing in May 2009 and there was no response until July 2009 when the Landlord and Caretaker attended the rental unit to look at the carpet. The Tenant argued that she never heard a response from the Landlord after he did the inspection in July and that is why she has brought the matter to arbitration.

Counsel for the Landlord argued that the Tenant has failed to provide evidence to support her claims of the condition of the carpet and that age alone does not support the need to replace a carpet.

The Landlord testified that he has been in charge of this property for about fourteen years and that he is aware that the bedroom carpet has since been replaced however the remaining carpet has been in the rental unit for more than fourteen years.

The Landlord confirmed that he attended the rental unit in July 2009 and that he felt the carpet did not need to be replaced. The Landlord testified that he is not a carpet professional.

The Tenant's Agent argued that the Tenant is now eighty years of age and living on a fixed income and that she could not afford to pay to have evidence, such as pictures, taken and submitted into evidence, and that the documentary evidence was submitted in accordance with the *Residential Tenancy Policy Guidelines*.

### Analysis

Given the testimony and documentary evidence before me the Landlord's obligation to repair and maintain the rental unit, as set out in section 32 of the Act, has been brought into question and I find that the onus is on the Landlord to provide documentary

evidence to support his claims that the carpet does not pose a health or safety risk to the Tenant.

Based on the aforementioned I make the following interim Order: The Landlord must Obtain photos and a written assessment, from a Carpet Professional, of the Tenant's carpet in the rental unit (not including the bedroom carpet) which lists the following:

- The estimated age of the carpet and underlay;
- existing condition of carpet, backing and underlay;
- the content of the underlay or estimated content;
- the existence of any ripples, bunches, or loose seems causing lifts in the carpet and quantity;
- the estimated remaining life of the carpet and underlay

This matter is adjourned to a later date and the Notice of Adjourned Hearing is enclosed with this Interim Decision and Order. The Landlord must submit as evidence a copy of the written carpet assessment along with photos of the Tenant's carpet to the Residential Tenancy Branch and to the Tenant prior to reconvening the adjourned hearing.

### Conclusion

This hearing is adjourned to the date specified in the enclosed Notice of Adjourned Hearing.

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: September 10, 2009.

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Dispute Resolution Officer