



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes            MNDC, ERP, RP, RR

### Introduction

This matter dealt with an application by the tenant for a monetary order for money owed or compensation for loss or damage under the *Residential Tenancy Act (Act)*, Regulations or tenancy agreement, an Order for the landlord to make emergency repairs, an Order for the landlord to make repairs and to allow the tenant to reduce her rent for repairs, services or facilities agreed upon but not provided.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were sent to the landlord by registered mail on November 22, 2010. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the submissions were made by the tenant. On the basis of the evidence presented at the hearing, a decision has been reached.

### Issues(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to an Order for the Landlord to make emergency repairs?
- Is the tenant entitled to an Order for the landlord to make repairs?
- Is the tenant entitled to reduce her rent for repairs, services or facilities agreed upon but not provide?



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Background and Evidence

The tenant testifies that this month to month tenancy started on April 01, 2006. Her rent is \$900.00 per month and is due on the first of each month. The tenant paid a security deposit of \$420.00 on April 01, 2006.

The tenant testifies that at the outset of her tenancy the carpets in her unit were very old, dirty and smelly. She testifies that the landlord promised to change the carpets but did not do so until approximately November 29, 2010. The tenant states she had to keep cleaning the carpets herself with little or no effect as the carpets were beyond cleaning. She states she kept asking the manager of the building about changing them and the manager always promised to talk to the landlord about it and get the landlord to come and look at the state of the carpets.

The tenant testifies that sometime in 2008 the landlord said he would come to look at the carpets but failed to do so and the tenant then gave the landlord a written letter concerning the condition of the carpets. The tenant said the landlord then told her that if the carpets were replaced it would put her rent up to \$1,300.00 per month. The tenant states she became scared by this and did not want to move out so did nothing else about it.

The tenant testifies that on October 03, 2010 there was a flood from behind the toilet. This was sewage water so she called the manager who came and commented on the smell. He came back with another man and they changed the pipe at the back of the toilet. The sewage water flooded from the washroom onto the hall carpets, the bedroom carpets and part way onto the living room carpets. The manager brought in a machine to dry the carpets but they were still not cleaned or replaced at that time. The tenant states the carpets were eventually replaced on or about November 29, 2010.

The tenant states as the landlord has now replaced the carpets she no longer requires an Order for emergency repairs or repairs to her unit but does seek a rent reduction for the time it took the landlord to replace the carpets and seeks to recover the equivalent of Octobers rent of



# Dispute Resolution Services

Page: 3

Residential Tenancy Branch  
Ministry of Housing and Social Development

\$880.00 in compensation for having to live with the carpets after they were covered in sewage flood water.

## Analysis

The landlord did not appear at the hearing to dispute the tenants claim, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenant affirmed testimony. Section 32 of the Act states:

*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.*

Section 32(5) of the Act also states:

*A landlords 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 a tenancy agreement.*

In this case the tenant has testified that the carpets were fifthly at the start of her tenancy and despite promises made to replace them the landlord failed to do so until the end of November, 2010. Therefore it is my decision, based on the tenants' testimony, that the landlord did not meet his obligations under section 32 of the *Act*. However, a tenant must inform a landlord that she requires repairs to a rental unit in writing. The tenant states she only did this in 2008 but could not remember when in 2008 therefore, I find the tenant may recover a portion of the rent paid to the landlord at a sum of \$50.00 per month for the reduction in the value of her tenancy from January 01, 2009 to November 01, 2010 to a total sum of \$1,100.00. The tenant may therefore deduct the sum of \$275.00 from her rent for, February, March, April and May 2011 pursuant to section 65(c) (ii) of the *Act*.

With regards to the tenants claim for a Monetary Order for compensation for the additional problem in her unit when sewage water flooded her unit; I find the landlord acted quickly to repair the pipe at the rear of the toilet and acted quickly to bring in machines to dry the carpets.



# Dispute Resolution Services

Page: 4

Residential Tenancy Branch  
Ministry of Housing and Social Development

However, the landlord then left these carpets which were already dirty, stained and smelly with sewage water dried in them for nearly two months before he replaced them or removed them. Consequently, I find the tenant is entitled to compensation of \$880.00 for having to live for a further two months with carpets which could have compromised the health of the tenant and her family. Consequently, I uphold the tenants' application for a Monetary Order to the sum of \$880.00 pursuant to section 67 of the *Act* and I Order the tenant to reduce her rent for January, 2011 by **\$880.00** making her rent payment for January, 2011 **\$20.00**.

As the landlord has now replaced the carpets and the tenants application for emergency repairs and repairs from the landlord only related to the carpets these sections of her application are dismissed.

## Conclusion

I HEREBY FIND in favor of the tenants monetary claim. I Order the tenant to reduce her rent for January, 2011 by **\$880.00** making her rent payment for January, 2011 **\$20.00**.

I HEREBY FIND the tenant may also reduce her rent for **February, March, April and May, 2011 by \$275.00**.

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: December 13, 2010.

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Dispute Resolution Officer