

## **DECISION**

Dispute Codes      MNDC, RR, FF, OLC, RP

### Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to have the Landlord comply with the Act, regulation or tenancy agreement, make repairs to the unit, to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

At the beginning of the hearing the Tenant clarified that that there were no repairs required, but that the Tenant was seeking to have the Landlord comply with a previous order rendered from Residential Tenancy Branch File No. 772292. The Tenant states that the D.R.O. made an order to have the Landlord put down area rugs in the unit above. As a result of the Landlord's non-compliance, the Tenant is seeking \$100.00 per month in compensation until the Landlord installs area carpeting in the unit above his.

### Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Is the Tenant entitled to an order for the Landlord to comply?

### Background and Evidence

The Tenant relies on Residential Tenancy Branch File No. 772292. Upon review the Tenant could not show an order made within the decision his entitlement that the Landlord to install area carpets. The decision made note that, "the remedial suggestion by the Landlord to provide area carpets to the upper unit should any new tenant in the upper unit cause noise..."

The Tenant states that he made one telephone call on August 31, 2011 as shown in the Landlord's letter of reply on September 19, 2011. The Tenant claims that he noted many occasions during the month of August 2011 that there was noise in the unit above. The Landlord stated that the unit above was vacant for the months of June, July and August. The new Tenant moved into the unit above on August 31, 2011. The Landlord's response in the letter dated September 19, 2011 only makes note of a response to the Tenant's request of installing carpet in the unit above. In the Tenant's own direct testimony, he stated that there was no excessive noises coming from the unit

above, just normal sounds of a person walking around. The Landlord states that other than this telephone call from the Tenant, she has not received any noise complaints. The Landlord further states that she has received a complaint from the new Tenant about the applicant. She states that there can be no excessive noises as she works nights and sleeps in her rental unit during the days. The Landlord has included correspondence from the new Tenant for this. The new Tenant further stated in her dialogue with the Landlord on exploring the issues of installing area carpeting for the new Tenant with a allowance provided by the Landlord to neutralize the sounds. The new Tenant feels that the applicant is bothering her and does not wish to have any further contact with him.

### Analysis

As both parties have attended the meeting and both have made detailed reference to the evidence submitted by both, that I am satisfied that each has been properly served with the notice of hearing and evidence packages.

I find that the Tenant has failed to establish a claim of entitlement. The Residential Tenancy File No. 772292 decision made June 7, 2011 does not make an order for the Landlord to install area carpets. The Tenant has failed to establish a claim of excessive noise caused by the upstairs Tenant. The Tenant has further failed to give notice of complaints of excessive noise. Based upon the Tenant's own direct testimony the only noise made is that of normal household sounds from the unit above. As such, the Tenant's claim to make repairs (install area carpets in the unit above) and have the Landlord comply with the Act (decision made on 772292) is dismissed.

Based upon the above, the Tenant's claim to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided and obtain a monetary order has failed. The monetary portion of the Tenant's application is dismissed.

### Conclusion

The Tenant's application is dismissed.

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 05, 2011.

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Residential Tenancy Branch