



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP, FFT

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- an order requiring the landlord to carry out repairs, pursuant to section 32 of the *Act*;
- an authorization to recover the filing fee, pursuant to section 72 of the *Act*.

Both parties attended and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Preliminary Issue – Service of the Documents

The landlord (respondent) confirmed receiving the notice of hearing and evidence from the tenant in person on June 25, 2020; no photographs were included. The tenant affirmed he did not give the photographs (which were uploaded to the Residential Tenancy Branch with the tenant's paper application) to the landlord.

I find the landlord was not served the photographs in accordance with section 89 of the *Act* and they are not permitted. I find the remaining evidence from the tenant and the notice of hearing were served in accordance with sections 89(1)(a) of the *Act*.

The tenant confirmed receipt of the landlord's evidence by registered mail on June 29, 2020. I find the landlord's evidence was served in accordance with sections 88(c) of the *Act*.

### Issues to be Decided

Is the tenant entitled to:

1. an order requiring the landlord to carry out repairs?
2. an authorization to recover the filing fee for this application?

### Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of the tenant's submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

Both parties agreed the tenancy started on August 01, 2014 and the tenant is currently residing in the rental unit. Monthly rent is \$875.29, due on the first day of the month. At the outset of the tenancy a security deposit of \$375.00 was collected and the landlord still holds it in trust. The tenancy agreement and addendum were submitted into evidence.

The tenant affirmed the carpet is very old, it is buckled and releasing debris and dust. The tenant wakes up sneezing because of the carpet condition. The tenant wrote a letter to the landlord in January 2020. It states:

I have lived here for the past five (SCRATCHED: SIX) years and have up kept the carpet however, due to the age of the carpet is had become wrinkled and lumpy. The underlay is obviously deteriorated which causes dust, this is not only uncomfortable but as well as unhealthy. I will send photos supporting this. Please contact me at your earliest convince to remedy this concern.

Both parties agreed the carpet was stretched by a carpet cleaning company on March 23, 2020. The tenant affirmed the carpet continues to have debris and releases dust after it was stretched. The landlord affirmed the carpet is in proper condition and submitted an email from the carpet cleaning company dated May 15, 2020. It states: "Stretching went well. Carpet should be ok for a while". The landlord affirmed the carpet today has minor staining because the tenant did not clean the carpet regularly. The landlord submitted into evidence photographs showing a clean carpet.

The tenant emailed the landlord on May 13, 2020 and asked once again for the carpet replacement:

I have submitted a letter and photos on January the 31<sup>st</sup>, 2020 stating my concern with the condition of the carpet in my suite number [anonymized]. Your reply was that the carpet is less than seven years old and only needed stretching. I have lived here for six

years and the carpet was obviously older than one year when I first moved in. I maintained the carpet by regularly vacuuming it and shampoo it appropriately every two years. Due you to the condition of the carpet when I moved in it is in obvious that the carpet is much older than what you have stated, (less than seven years) causing it to be dilapidated, wrinkled and buckling.

The build up of dirt and residue in such an old carpet is causing a health concern. Even after regular vacuuming it is still very dusty which is detrimental to my health and makes it difficult to breath.

The tenant affirmed the carpet is around 20 years old, it is dirty and it has stains. When the tenancy started the carpet had stains and discolorations.

The move-in inspection report, signed by both parties on August 15, 2014, states the carpet had stains and discolorations when the tenancy started. The living room and master bedroom carpet was in satisfactory condition.

The landlord affirmed the rental building was purchased in June 2013 and an inspection report states that in September 2012 the carpet of this rental unit was replaced. The report was submitted into evidence, however, it does not contain information about the tenant's rental unit. The landlord submitted into evidence a letter dated March 12, 2020, addressed to the tenant. It states: "Please be advised that the carpet in your suite is less than seven (7) years old and is not due for the replacement."

Section 22 of the tenancy agreement addendum, signed by the tenant, states: "A tenant is responsible for professional steam cleaning of carpets in the rental suite annually."

The tenant affirmed he steam cleaned the carpet last year around Christmas and he has been doing this every other year, as he lives alone and is often travelling. When the tenant vacuum cleans the carpet there is a large amount of debris.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 32(1) 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.

Residential Tenancy Branch Policy Guideline 01 states:

1. At the beginning of the tenancy the landlord is expected to provide the tenant with clean carpets in a reasonable state of repair.
2. The landlord is not expected to clean carpets during a tenancy, unless something unusual happens, like a water leak or flooding, which is not caused by the tenant.
3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

Residential Tenancy Branch Policy Guideline 40 states the useful life of a carpet is 10 years.

Based on the landlord's testimony and letter dated March 12, 2020, I find the carpet was replaced in September 2012. Thus, the carpet is less than 8 years old and has a life expectancy of 2 years.

Further to that, the tenant affirmed he has not been cleaning the carpet in accordance with section 22 of the tenancy agreement addendum.

Based on the parties testimony, letters and emails submitted into evidence, I find the tenant did not prove, on a balance of probabilities, the rental unit's carpet is not complying with section 32 of the Act.

Thus, the tenant's application for an order requiring the landlord to replace the carpet is dismissed.

The tenant must bear the cost of his filing fee, as the tenant was not successful in the application.

### Conclusion

I dismiss the tenant's application 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: July 27, 2020

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Residential Tenancy Branch