



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GARDEN CONSTRUCTIONS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RP, OLC, FF

### Introduction

On January 3, 2021, the Tenant applied for dispute resolution under the *Residential Tenancy Act* (“the Act”) seeking the following relief:

- for an order for the Landlord to make repairs to the rental unit.
- For the Landlord to comply with the Act, Regulation, or tenancy agreement.
- to recover the cost of the filing fee.

The matter was scheduled for a teleconference hearing. The Tenant and the Landlord’s agent (“the Landlord”) were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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.

### Issues to be Decided

- Is the Tenant entitled to an order that the Landlord make repairs to the unit?
- Is the Tenant entitled to an order for the Landlord to comply with the Act, Regulation, or tenancy agreement?
- Is the Tenant entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord and Tenant testified that the tenancy began in September 2017 as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,369.00 is to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$642.50.

### Repairs

The Tenant applied for an order for the Landlord to repair an electrical outlet and replace flooring in the rental unit.

The Tenant testified that the electrical repair has been resolved and withdrew that part of the application.

The Tenant stated that when she moved into the rental unit the carpet was not optimal. She testified that at that time she had a conversation with the Landlord who mentioned that the carpets would be replaced at some point. The Tenant testified that last year a new building manager was hired, and she asked about the timeline for carpet replacement. She stated that the Landlord informed her that the carpet is showing signs of normal wear and tear and does not need replacement.

The Tenant submitted that the useful life of carpets is 10 years according to the Residential Tenancy Branch policy guideline #40.

The Tenant states that the carpet is old, and her children have asthma. The Tenant wants the carpets replaced. The Tenant provided photographs of the carpet.

In reply, the Landlord testified that the carpet was installed in 2011 and is in need of a good cleaning. The Landlord is not in agreement to replace the carpets. The Landlord stated that the Tenant should be having the carpets cleaned at least once per year.

### Kitchen Flooring

The Tenant wants the kitchen flooring to be replaced. The Tenant testified that she can see the tops of nails that secure the flooring. She stated that the nails are not sticking up and causing a safety issue, but they can be seen. She stated that a couple years ago she asked the Landlord to repair the floor and the Landlord provided her with vinyl planks to cover the floor which she installed. The Tenant provided a photograph of the vinyl planks in the kitchen. She testified that the planks were lifting and had gaps between the planks, so she has now removed the planks and she wants the linoleum

replaced. The Tenant provided photographs of the kitchen flooring. The photographs indicate the linoleum is lifting at a seam. The Tenant testified that she never asked for the Landlord to repair the linoleum but did ask for it to be replaced.

In reply, the Landlord testified that they are not in agreement to replace the linoleum flooring. The Landlord testified that the linoleum was in great shape. The Landlord stated that he will repair the linoleum that is lifting but is not in agreement to replace it.

### Analysis

Section 32 (1) of the Act provides:

*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.*

*(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.*

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

### Carpet

I find that there is insufficient evidence from the Tenant to prove there was an agreement reached with the Landlord to replace the carpets as a condition of entering into the tenancy.

Upon review of the photographs, I find that the carpet is very dirty. I find that the Tenant is responsible to periodically have the carpets cleaned. I find that aside from the cleanliness of the carpet, there is insufficient evidence from the Tenant to establish that the carpet is damaged or does not comply with health, safety and housing standards required by law. The Tenant did not provide any evidence of health, safety, and housing standards with respect to flooring.

With respect to the Tenant's submission regarding useful life of carpets, I find that the policy guideline indicates that the useful life of a carpet is 10 years when determining its

depreciated value when considering to award damages. I find that the policy guideline does not mean that a carpet must be replaced when it reaches 10 years old.

I find that a Tenant is not entitled under the Act to have a building element replaced based solely on its age. The building element must be shown to be unsuitable for occupation by a tenant or a health or safety issue must be present. I accept that the cleanliness of the carpet could affect a person with asthma; however, I find that a health issue is more likely connected to the cleanliness of the carpet rather than its age.

The Tenants request for the Landlord to replace the carpet is denied and is dismissed.

### Kitchen Flooring

Upon review of the photographs, I find that the kitchen linoleum floor is lifting at a seam. I find that there is insufficient evidence from the Tenant to establish that the linoleum must be replaced because it is unsuitable for occupation by a Tenant or does not comply with health, safety and housing standards required by law. The Tenants request for the linoleum to be replaced is denied.

I find that the lifting seam of the linoleum may present a safety issue and should be repaired to ensure it is suitable for use by the Tenant.

I order the Landlord to attend the rental unit and repair the lifting seam of the linoleum within two weeks of the date of this decision.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant did not ask the Landlord to repair the kitchen linoleum floor prior to the hearing, I decline to order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

### Conclusion

The Tenant's application requesting that the Landlord replace flooring in the rental unit was not successful; however, the Landlord is ordered to make a repair to a kitchen linoleum floor.

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: March 31, 2021