

#### **4.3 Deputy M. Tadier of St. Brelade of the Solicitor General regarding the determination of 'uninhabitable' under Article 9(a) of the Residential Tenancy (Jersey) Law 2011:**

Will Her Majesty's Solicitor General in this case explain what constitutes uninhabitable under Article 9(a) of the Residential Tenancy (Jersey) Law 2001 and who determines this?

##### **Mr. H. Sharp Q.C., H.M. Solicitor General:**

Article 9 of the Residential Tenancy (Jersey) Law 2011 provides a tenant with a statutory right to cease payment of their rent and/or to obtain a court order varying or even terminating the tenancy agreement in the event that the premises have become uninhabitable. I am asked 2 questions in respect of this particular provision. The first question is; what does uninhabitable mean? For my part I would give the word its ordinary meaning. It means that the property is unsuitable for living in. To take an extreme example a property that is severely damaged by fire will be uninhabitable. The second question is; who decides whether a property is in fact uninhabitable? The answer is that if the landlord and the tenant cannot agree then the Petty Debts Court has the jurisdiction to resolve any such dispute.

##### **4.3.1 Deputy M. Tadier:**

In the event that a landlord and a tenant cannot agree on the definition of uninhabitable and there is a decline in goodwill would the Solicitor General outline the process starting at which point the tenant may reasonably withhold their rent and whether or not, in the absence of an escrow service, what should happen to that money in the interim?

##### **The Solicitor General:**

If a tenant reaches the view that their property is uninhabitable then Article 9(a) of the law provides them with a right to stop paying rent and they do not need to go to court to do that.

##### **4.3.2 Deputy M.R. Higgins of St. Helier:**

Would the Solicitor General try and give us some guidance in the case of where homes are unfit because of mould or damp or water and people have got medical conditions, such as chest conditions and so on, would those sorts of conditions be classed as uninhabitable for those people so far as the law is concerned?

##### **The Solicitor General:**

I am being asked to comment on a case which, I believe, has recently been in the media ...

##### **Deputy M.R. Higgins:**

With respect it is not. It is a general point.

##### **The Solicitor General:**

... and I decline to comment on a particular case. What I will say in general terms is it is a matter of fact and degree and each case will turn on its own facts and I cannot really improve on that.

##### **4.3.3 Deputy M.R. Higgins:**

Could the Solicitor General tell us who would determine the facts in that particular case?

##### **The Bailiff:**

I think he has already said that, the Petty Debts Court. Do you wish a final question?

##### **Deputy M. Tadier:**

I do not have any further questions. That is very clear. Thanks.