



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      CNR, MNDC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a Notice to End Tenancy and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and the 3 agents for the landlord.

### Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to a monetary order for compensation for loss or damage under the *Act*, regulation or tenancy agreement, pursuant to Sections 46, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on September 1, 2006 as a month to month tenancy for a current monthly rent due on the 1<sup>st</sup> of the month, a security deposit was paid but the parties were unable to recall the amount during the hearing.

The tenant submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on October 4, 2010 with an effective vacancy date of October 14, 2010 due to unpaid rent in the amount of \$310.00. The parties agreed the tenant has not yet paid October 2010 rent nor have they paid rent for November 2010.

The landlord's agent testified the notice was served to the tenant on October 4, 2010 by placing it under the door. The tenant contends the landlord's agents entered the rental unit despite his request that they not come into the rental unit and when they saw the tenant's stage of dress they placed the notice on the floor and left.

The tenant contends that he did not pay rent because he was so frustrated with the landlord's inability to end a bedbug infestation in the building that had been lasting for at least 2 years. He stated his intention was to not pay rent until such time as the bedbug problem was resolved.

The landlord has confirmed the building has had a major bedbug infestation first reported in August 2008 and that the landlord has been working with several licensed pest control contractors but have been unable as of yet to eradicate the bugs.

The landlord testified that this tenants' rental unit has been treated at least 9 times over the two year period but that the tenant is not always compliant with the pre-treatment preparation protocol.

The tenant testified that over the course of the two years he has lost several articles of clothing due to the blood staining that result from the bedbugs; a 3 drawer dresser constructed of particle board that allows for infiltration by bedbugs; a couch; a hide-a-bed and a high back chair and ottoman with extreme sentimental value. The tenant estimates the total value of these items to be \$1,500.00.

The tenant also noted that he has changed his mattress three times but that he has not had to purchase replacements and so is not claiming these in his application.

The landlord did not understand the tenant's need to dispose of the items identified, with the possible exception of the hide-a-bed as that would have a mattress that could remain infested.

### Analysis

While I understand the frustration the tenant must be facing in regards to the bedbug infestation, Section 26 of the *Act* stipulates that a tenant must pay rent when it is due under the tenancy agreement whether or not the landlord complies with the *Act*, regulation or tenancy agreement.

While no testimony presented implies that the landlord has breached the *Act*, regulation or tenancy agreement the landlord has been unable to provide accommodation free of bedbugs for an extended period of time which certainly can explain the tenants desire to try to force the landlord to eradicate the bedbugs in both the complex and the rental unit by withholding rent.

However, as the tenant has no authority to withhold rent, I find the 10 Day Notice to End Tenancy issued by the landlord on October 4, 2010 to be in full force and effect and the tenant must vacate the rental unit in accordance with that notice. I note here that the landlord did not request an order of possession during this hearing.

To be successful in a claim for compensation for damage or loss under the *Act*, regulation or tenancy agreement the party making the claim must provide sufficient evidence to establish the following 4 points:

1. A loss or damage exists;
2. The loss or damage results from a violation of the *Act*, regulation or tenancy agreement;

3. The value of that loss; and
4. The steps taken, if any, to mitigate any loss or damage.

While I accept items might require disposal as a result of bedbug infestations despite the tenant's testimony, I find the tenant has failed to establish why these particular items required disposal, therefore he has failed to establish that a loss exists.

In addition, even if the tenant had established that a loss existed, as the landlord continues to try to resolve the bedbug problem in the residential property, I cannot find that there has been a violation of the *Act*, regulation or tenancy agreement. As such, I find the tenant has failed to provide sufficient evidence to establish his monetary claim against the landlord.

### Conclusion

Based on the findings above, I dismiss the tenant's application in its entirety.

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: November 03, 2010.

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Dispute Resolution Officer