



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, FF

### Introduction

This hearing dealt with a landlord's application for monetary compensation from the tenant for costs to treat a bed bug infestation. Both parties appeared at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

Is the landlord entitled to receive compensation from the tenant for costs to treat a bed bug infestation in the rental unit, adjacent units, and other parts of the residential property?

### Background and Evidence

The landlord has paid \$6,462.00 to treat a bed bug inspection, including the removal of wood panelling in an adjacent unit, between the months of March 2011 and October 2011. The landlord is seeking to recover this loss from the tenant by way of this application.

The following information was undisputed by the parties:

- The tenancy commenced in 2006 and the rental unit is located in a multiple-unit residential property.
- After receiving a complaint from the tenant's daughter the landlord had the rental unit inspected for bed bugs March 11, 2011. Bed bugs were detected in the rental unit by a pest control technician. Adjacent units were inspected March 15, 2011 and no signs of bed bugs were detected on that date.
- March 28, 2011 and April 12, 2011 the rental unit was treated for bedbugs.
- August 26, 2011 the landlord received a complaint of bed bug bites from the tenant of a unit adjacent to the rental unit.

- August 29, 2011 the landlord had the rental unit and adjacent units inspected and bed bugs were found in the rental unit and two adjacent units.
- The landlord had four more treatments performed in the rental unit in September and October 2011.
- During September and October 2011 the landlord also had the adjacent units treated and preventative treatments applied to surrounding areas.
- The landlord paid to have wood panelling removed in an adjacent unit as bed bugs were found to be living behind the wood panelling.
- The bed bug infestation has since been eradicated.

### **Landlord's position**

The landlord testified that during an inspection in September 2011 the tenant admitted to the landlord's staff persons that he had seen bed bugs in his rental unit but had not reported it. The landlord testified that the pest control company advised the landlord that the likely source of origin of the infestation was the rental unit.

The landlord is of the position that the tenant not only introduced bed bugs to the property but was negligent by not reporting further sightings or signs of bed bugs after the first infestation in the spring. By failing to report sightings of more bed bugs the infestation spread and resulted in greater expense for the landlord to eradicate the problem.

In support of the landlord's application the landlord provided copies of: a tally of expenses associated to the inspection and treatment of bed bugs; invoices for bed bug inspections and treatments; a receipt for the removal of wood panelling in an adjacent unit; a summary report of events and opinion of the pest control company manager; letters written to the tenant March 18, 2011 and January 24, 2012.

### **Tenant's position**

The tenant was of the position that he is liable to pay for the bed bug inspections or treatments. The tenant submitted that he did not bring bed bugs into the building and it is unknown where they came from. Further, pest control is the responsibility of the landlord.

The tenant testified that when the unit was inspected in March 2011 only one bed bug was found in his unit. The tenant had not seen any bed bugs before this inspection and was never bitten by bed bugs at any time. After the first treatments in March and April

2011 the tenant stated he saw very few “bugs”. The tenant did not elaborate on what type of bug he was referring to. However, the tenant acknowledged that he and the landlord’s staff did see bed bugs coming from a crack on the wall that adjoins another unit in September 2011. The tenant submitted that the unit adjacent his unit, with the wood panelling, had far more bed bugs than the tenant’s unit.

The tenant explained that he did not know he was required to report any bug sighting to the landlord and he did not report the bugs he did see because he understood the landlord’s pest control company was taking care of pest control. The tenant further submitted that he had co-operated with the pest control company at all times.

In the tenant’s written submission, he points out that the technicians did not look behind the wood panelling during the inspections that took place in the adjacent unit in March and April 2011. Yet, when the wood panelling was removed in September 2011 many bed bugs were found there.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Section 32 of the Act provides that a landlord and tenant both have statutory duties to repair and maintain a residential property. The tenancy agreement contains a clause dealing with repairs that conveys essentially the same information provided in the Act for repairs and maintenance. The Act and the tenancy agreement provide that the tenant is responsible for:

1. Maintaining reasonable health, cleanliness and sanitary standards throughout the rental unit; and,
2. Taking necessary steps to repair damage caused by the actions or neglect of the tenant.

In this case, I was not provided evidence to suggest that the bed bug infestations were attributable to lack of reasonable health, cleanliness or sanitary standards of the tenant. Rather, the landlord's position appears to rest on the second requirement identified above.

The introduction of bed bugs in a unit often occurs without the person having any knowledge they are doing so and without the person acting negligently. Further, in multiple unit buildings, the original introduction of bed bugs is almost impossible to determine. The parties provided opposing evidence that the tenant introduced the bed bugs to the building; however, even if he did, the landlord has to show that the tenant did so negligently in order for me to consider an award for damages. Information and the policy intent pertaining to awards for damages are provided for in Residential Tenancy Policy Guideline 16: *Claims in Damages*. The guideline provides, in part,

**Claims in Tort**

A tort is a personal wrong caused either intentionally or unintentionally. An arbitrator may hear a claim in tort as long as it arises from a failure or obligation under the Legislation or the tenancy agreement. Failure to comply with the Legislation does not automatically give rise to a claim in tort. The Supreme Court of Canada decided that where there is a breach of a statutory duty, claims must be made under the law of negligence. In all cases the applicant must show that the respondent breached the care owed to him or her and that the loss claimed was a foreseeable result of the wrong.

[my emphasis added]

Although the landlord's pest control company manager opined that the bed bugs originated from the rental unit, and the landlord suggested this was because the tenant has a boat, I am not satisfied that the tenant has knowledge of bringing bed bugs from his boat or was negligent in going to and from his boat. Thus, I proceed to consider whether the tenant was negligent by not reporting sightings or signs of bed bugs to the landlord after the first treatments in March and April 2011.

The tenant submitted that he was of the understanding the pest control company and landlord were aware of bed bugs in the building and were taking care of the problem. I was not provided evidence that would contradict this understanding of the tenant. Rather, the landlord's written communication to the tenant dated March 18, 2011 supports the tenant's understanding that the landlord was responsible for and taking care of follow up inspections and that the tenant's responsibility was to prepare his unit and co-operate with the landlord's treatment efforts. Aside from instructing the tenant how to prepare for treatments the landlord makes the following statements in their letter:

“Please be advised that [name of landlord] will do all necessary steps to prevent bedbug infestation from spreading. If you fail to co-operate and properly prepare your suite for the treatments we will have no other choice than to issue a one-month eviction notice...”

“...we have grounds to believe that bedbugs were brought to the building by residents or visitors of your suite. More inspections will be done...”

Upon review of the pest control companies summary of events, the landlord's correspondence to the tenant, and the landlord's testimony during the hearing I accept the tenant was not given any special instruction to report further sightings to the landlord. I find the landlord remiss in not conducting follow up inspections after the April 2011 treatment and apparently placed a heavy reliance upon the tenant to inform them of future signs of bed bugs without any request or notification that he do so. After the series of treatments by a pest control company and the landlord's letter of March 18, 2012 I find the tenant's conclusion the landlord was aware of a bed bug issue in the building and would be responsible for following up with inspections and treatments to be reasonable. Having found the tenant's conduct reasonable in the circumstances I decline to find the tenant negligent.

In light of the foregoing, I dismiss the landlord's claims against the tenant.

As there have been two infestations in the rental unit, given the expense of such treatments and in an attempt to avoid future disputes, I find it appropriate to make an order pursuant to section 62 of the Act. **I ORDER the tenant to immediately report any actual or possible signs or sightings of bed bugs in the rental unit to the landlord. This Order shall take effect upon receipt of this decision.**

### Conclusion

The landlord's claims against the tenant have been dismissed.

I have ORDERED the tenant to immediately report any actual or possible signs or sightings of bed bugs in the rental unit to the landlord pursuant to section 62 of the Act.

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 10, 2012.

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Residential Tenancy Branch