



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC  
OPC

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a 1 month notice to end tenancy for cause. Both parties attended and gave affirmed testimony.

During the hearing the landlord confirmed that he seeks an order of possession in the event the tenant's application does not succeed.

### Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, tenancy began on June 1, 2002. A security deposit of \$330.00 was collected on May 22, 2002, and the current monthly rent is \$873.00.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated July 30, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is August 31, 2013. There are 2 reasons identified on the notice in support of its issuance, however, they are not discernible on the copy in evidence before me. The tenant filed an application to dispute the notice on August 9, 2013.

Subsequently, the landlord issued a second 1 month notice to end tenancy dated August 30, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is September 30, 2013. Page 2 of what is a 2 page notice is not in evidence. However, the parties confirmed during the hearing the reason identified on the notice in support of its issuance is as follows:

Tenant or a person permitted on the property by the tenant has:

seriously jeopardized the health or safety or lawful right of another occupant or the landlord

During the hearing the tenant confirmed that his application applies to disputing both, the 1 month notice dated July 30, 2013, and the 1 month notice dated August 30, 2013.

The dispute centres principally around bedbugs found in the tenant's unit, the extent to which the tenant is responsible for their presence, the nature of his response when he became aware of them, and his response after receiving instructions related to eradicating them.

Relevant documentary evidence includes, but is not limited to the following two documents:

- i) an e-mail to the landlord from a pest control technician in which the technician confirms his attendance to the unit "on or about the second week of June" for the first treatment of bedbugs, and "on or about the fourth week of June for the second treatment." In his e-mail, the technician states that in his "professional estimation" the tenant's unit was the source of the bed bug infestation and that it "went unreported for at least a 2 month period of time."
- ii) a letter from the landlord to the tenant dated June 25, 2013, in which the landlord states, in part, as follows:

Although everybody in the building know that they MUST inform immediately about any possible infestation when it comes to any pests – YOU HAVE NOT done so – making our business almost impossible to conduct.

In this letter the landlord claims that four or five other tenants have vacated the building as a direct result of the tenant's failure to be more proactive in reporting an infestation in his unit. During the hearing the tenant denied having seen the landlord's letter until it was provided in the landlord's documentary submission for the purposes of this hearing.

The tenant acknowledged that he initially reported the existence of bedbugs in his unit to his advocate, who in turn informed the landlord. The tenant indicated that his

reluctance to address the matter directly and promptly with the landlord was the result of feeling intimidated by the landlord, and a fear that he may be evicted. Following interactions between the tenant's advocate and the landlord, the tenant undertook in a timely fashion to remove from his unit the pieces of furniture which appeared to be the main sites for the bedbugs.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 32 of the Act addresses **Landlord and tenant obligations to repair and maintain**, in part as follows:

32(1) 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 documentary evidence and testimony, and in consideration of the above statutory provisions, my findings are set out below.

While I note the pest control technician's "professional estimation" in relation to the suspected 2 month period of time before the existence of bedbugs in the unit was reported, it is 1 technician's view, and I must presume the existence of some margin of error in such a view.

Additionally, while the landlord testified that tenants have verbally been instructed / reminded about the importance of reporting pest sightings, documentary evidence of more formal notification is limited to the landlord's letter dated June 25, 2013, and there is conflicting testimony around how / when that letter was first brought to the tenant's attention.

Further, there is no evidence before me of previous similar problems arising between these parties during what is an 11 year tenancy, and there is insufficient evidence that the tenant has failed to “maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.”

In summary, I find that the landlord has failed to meet the burden of proving entitlement to an order of possession on the basis of grounds identified in the 1 month notice(s). Accordingly, both 1 month notices are hereby set aside and the tenancy continues in full force and effect.

Finally, if there was ever any doubt about the importance of a tenant’s reporting of bedbug or other pest sightings in a forthright and timely manner to a landlord, there ought now to be none.

#### Conclusion

Both 1 month notices to end tenancy are hereby set aside, with the effect that the tenancy continues uninterrupted.

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: September 18, 2013

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Residential Tenancy Branch

