



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MND, MNSD, FF, CNC

### Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants are seeking to have a One Month Notice to End Tenancy for Cause set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is either party entitled to any of the above under the Act, the regulation or the tenancy agreement?

### Background and Evidence

The tenancy began on or about March 1, 2005. Rent in the amount of \$785.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$275.00.

The landlord gave the following testimony:

The landlord stated that in early July 2013 she received complaints from the tenant in the unit next to the subject unit that she had found bedbugs. The landlord contacted a pest control company to investigate. The pest control company advised the bedbugs were originating from the subject unit and required spray treatment to resolve the matter. The landlord stated that the pest control company provided detailed instructions

on how to prepare the unit for spraying. The landlord stated that the instructions along with verbal and written notice were given to the subject tenants. The landlord stated that the first spray treatment was scheduled on July 20, 2013 however the tenants refused access to the pest control company. The landlord was forced to cancel the appointment but still had to pay \$47.25 for the pest control company's' attendance. The landlord stated that on July 20, 2013 she informed the tenants that the company would return on July 27, 2013 to conduct the spraying and for the tenants to prepare their unit for that.

The landlord stated that on July 27, 2013 the tenants allowed the company access to spray the unit but did not prepare the unit as required. The landlord provided a work order from the pest control company reflecting the poor preparation condition of the unit and that the likelihood of eradicating the bedbugs is reduced because of the poor preparation. The landlord stated that on July 27, 2013 the tenants were once again given notice and instructions to prepare the unit for the second spraying on August 3, 2013 and that the tenants must remove all items that had been deemed infested with bedbugs. The landlord stated that on August 3, 2013 the tenants had not prepared the unit as required nor did the remove the infested items as asked. The landlord stated that she is trying her best to resolve the problem but the tenants refuse to cooperate and that is the reason she issued the One Month Notice to End Tenancy for Cause on the basis that the tenant has seriously jeopardized the health, safety, or lawful right of another occupant or the landlord and put the landlords property at risk.

The tenants gave the following testimony:

The tenants stated that the adamantly dispute the claims as made by the landlord. The tenants stated that they were insulted by the allegation that they were the cause of the bedbugs. The tenants stated that landlord scheduled the sprayings on inconvenient days. The tenants stated that they work during the week and it is very difficult to find a place to keep their dog while the spraying occurs. The tenants stated that the unit is clean and bug free and that the landlords' information is incorrect. The tenants wish to remain in the building if possible.

Analysis

Section 32 of the Act addresses the issue before me 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.

The issue for me is not to decide where the bedbugs came from but are the parties attempting to resolve the matter in a timely fashion. The Act is clear that both parties must mitigate damage or loss as part of a tenancy agreement. In the tenants own testimony they acknowledged that they have restricted access and have not followed the request of the landlord or the pest control company to remedy the situation. I find the tenants have failed to meet their responsibility as required under the Act. The tenants' reason for restricting and denying access due to inconvenience is not justifiable. I find that the landlord has conducted their business in accordance with the Act and have attempted to minimize and mitigate the impact on all tenants in this 22 unit complex. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court. The notice was given to the tenants on August 1, 2013 with an effective date of August 31, 2013. The tenants have paid the rent in full for the month of September. The issue of the "self correcting" of dates as outlined in the Act was discussed with the parties and both understood the notice would take effect on September 30, 2013; the notice is of full effect and force on that day.

The landlord was seeking costs to clean the unit and for some repairs when the tenants move out however the landlord is premature in that application as she has not incurred those costs yet and as a result I dismiss that portion of her application. The landlord is entitled to the recovery of the \$47.25 for the canceled appointment with the pest control company.

As for the monetary order, I find that the landlord has established a claim for \$47.25. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$97.25 from the security deposit in satisfaction of the claim

### Conclusion

The landlord is granted an order of possession and to retain \$97.25 from the security deposit.

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 23, 2013

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Residential Tenancy Branch

