



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF, O

### Introduction

The landlords applied for a Monetary Order for damage to the rental unit and damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit. This Application was originally scheduled to be heard with the Tenant's Application for Dispute Resolution for return of double the security deposit. It was determined at the originally scheduled hearing that the landlords had extinguished their right to claim against the security deposit and due to time constraints a decision and Monetary Order was issued with respect to the tenants' Application and the landlord's Application was adjourned.

Both parties appeared or were represented on both days of 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

Have the landlords established an entitlement to compensation from the tenants for a cleaning charge and costs related to bed bug inspections and treatment?

### Background and Evidence

The tenancy commenced December 5, 2013 and ended May 31, 2014 pursuant to their fixed term tenancy agreement. The rental unit is a condominium in a multiple-unit strata building.

The landlords seek to recover \$26.25 from the tenants for a cleaning charge that the landlords paid to the strata corporation due to the actions of the tenant. The tenants were agreeable to this portion of the landlords' claim.

The landlords seek to recover a total of \$572.25 for bed bug inspections of five condominium units including the rental unit and treatment of bed bugs in the rental unit. The landlords submitted that the rental unit was inspected for bed bugs on November 26, 2013 when the unit was vacant and no bed bugs were detected at that time. Initially, the landlord testified that the rental unit was inspected for bed bugs in November 2013 out of "due diligence" to ensure the rental unit was free of bed bugs as the landlords had just purchased the rental unit. The landlords subsequently testified that the strata corporation regularly inspects the building for bed bugs. The landlords testified that they could not recall whether the landlords or the strata corporation had requested the bed bug inspection in November 2013 and the landlords were uncertain as to whether the pest control company invoiced them or the strata corporation for that inspection. The landlords submitted a "Service Report" prepared by the pest control company on November 26, 2013 indicating no bed bugs were detected although I noted that one of the lines of the report had been obscured. The landlords stated that they could not locate their copy of the Service Report and could not describe the information that was obscured although the landlords were willing to call the pest control company during the hearing to ascertain this information.

The parties provided consistent testimony that a few months into the tenancy the tenants complained to the landlords that they believed there were bed bugs in the rental unit. In response, the landlord contacted the strata corporation and the same pest control company that came in November 2013 was called to inspect the rental unit and surrounding units. An inspection took place on April 24, 2014 and the pest control company noted on the Service Report that bed bugs were detected in the tenants' mattress and the baseboard of the rental unit where the wall and carpet meet. No bed bugs were detected in the surrounding units. The tenants were given instructions on how to prepare the rental unit for treatment, which they did. On April 28, 2014 the pest control company returned and noted on the Service Report that the unit had good preparation and they treated the unit. On May 22, 2014 the rental unit was inspected again and no bed bugs were detected.

The landlords provided copies of the invoices for the April and May 2014 inspections and treatment. The pest control company invoiced the strata corporation and the strata corporation charged the landlords since bed bugs were detected in their unit.

The landlords were of the position that the tenants are responsible for paying for the inspections and treatments that took place in April and May 2014 because the tenants must have introduced bed bugs to the unit since it was free of bed bugs on November 26, 2013. The landlords pointed out that the tenants brought a used mattress into the

rental unit and the landlords submitted that used mattresses are a main source of bed bug infestations.

The tenants were of the position that they are not responsible for paying for bed bug inspections and treatments. The tenant submitted that no one knows where bed bugs come from since they can come into a unit in many different ways; that any one entering the unit could have introduced bed bugs into the unit, including people that were in the unit before the tenancy began; that the building or the unit may have had pre-existing bed bug issues which would explain why the unit was inspected for bed bugs prior to the start of the tenancy.

The tenants acknowledged that they purchased a used mattress but explained that it was purchased from a friend in October 2013 and that they had not had issues with bed bugs before moving into the rental unit. The tenants had their friend write a letter and the tenant's friend indicated the mattress was approximately one year old and it was clean and in good condition when it was given to the tenants.

Although the tenant felt itching the month after the tenancy started, the tenant explained that only one of them suffered from the bites and that, initially, it thought that the one tenant was allergic to something and they did not connect it to bed bugs. However, the tenant later found a brown bug in the unit and upon researching it online they discovered it could be a bed bug. Shortly, thereafter they contacted the landlord about their discovery.

The tenant submitted that even if bed bugs came into the unit on their person or on their belongings this was not done purposefully. The landlord recognized that the tenants likely did not bring bed bugs into the unit on purpose but that the tenants remain liable because bed bugs were not in the unit before the tenancy began and there bed bugs in the unit during their tenancy.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. 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.

The burden of proof is based on the balance of probabilities. That being said, where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 32 of the Act provides that a landlord and tenant both have statutory duties to repair and maintain a residential property. A tenant's obligation to repair and maintain are provided under subsection (2) and (3) which provide:

- (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.
- (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

With respect to the cleaning charge, the tenants acknowledged that they were responsible for paying this charge and I award the landlords \$26.25 as claimed.

Below, I provide my findings and reasons with respect to the landlords' claims for costs related to inspections and treatment of bed bugs.

Bed bugs are may be introduced and flourish anywhere ever they can get a blood meal and this includes clean and sanitary environments. I was not provided evidence to demonstrate that the bed bug infestation in the rental unit was attributable to lack of reasonable health, cleanliness or sanitary standards on part of the tenants. Further, the

pest control company service report of April 28, 2014 establishes that the tenants prepared the rental unit well for treatment and that their actions aided in the eradication of bed bugs without repeated treatments. Thus, I find there insufficient evidence to conclude the tenants violated subsection 32(2) of the Act and I proceed to considered whether the landlords have demonstrated that the tenants violated section 32(3) of the Act.

Although the tenants brought in a mattress they recently purchased from a friend and bed bugs were found in the mattress during the tenancy, bed bugs are commonly found in or about mattresses as bed bugs are attracted to sleeping people for a blood meal. Thus, finding bed bugs in a mattress does not in itself establish that bed bugs were introduced to a unit by bringing in that mattress. Further, it is also important to point out that in this case, bed bugs were also found in the baseboard of the rental unit.

While it remains possible that the bed bugs were brought in to the rental unit with the mattress this is not the only possible scenario. The introduction of bed bugs to living accommodation often occurs without a person having any knowledge they are doing so and without the person acting negligently since bed bugs may come in on a person's body or personal possessions after the person has been in a public place, including libraries, restaurants, theatres or hotels. Also, in multiple unit buildings, the original introduction of bed bugs is very difficult to determine as bed bugs may move through wall cavities and under door ways between units and common areas.

Even if the bed bugs were brought in by the tenants on their mattress, as suggested by the landlords, in order to be compensated, the landlords must prove that the tenants did so negligently, as provided in Residential Tenancy Policy Guideline 16: *Claims in Damages*. Residential Tenancy Policy Guideline 16 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]

Upon hearing from the parties and considering their respective evidence, I find the landlords did not demonstrate that the tenants knew or ought to have known that the mattress they brought into the unit had bed bugs and without such knowledge I find the landlords did not establish that by bringing in the mattress a bed bug infestation was a foreseeable result.

In light of the foregoing, I dismiss the landlord's claims against the tenants costs related to bed bug inspections and treatments.

I make no award for recovery of the filing fee given the very limited success of the landlord's claims against the tenants.

### Conclusion

The landlords have been awarded \$26.25 for cleaning costs and the landlords have been provided a Monetary Order in this amount to serve and enforce as necessary.

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: December 17, 2014

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Residential Tenancy Branch

