



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Melcor Realty Management Services Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNDC, ERP, DRI, and FF

### Introduction

This Application for Dispute Resolution was the subject of a dispute resolution hearing on January 18, 2016. The Application for Dispute Resolution was dismissed as the Tenant did not attend the hearing on January 18, 2016.

The Tenant filed an Application for Review Consideration on January 28, 2016. The Residential Tenancy Branch Arbitrator considering the review determined that a new hearing should be convened.

The hearing on March 24, 2016 was convened to consider the merits of the Tenant's Application for Dispute Resolution, in which the Tenant applied for a money owed or compensation for damage or loss; for an Order requiring the Landlord to make repairs to the rental unit; to dispute a rent increase, and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that sometime in November of 2015 the Application for Dispute Resolution, the Notice of Hearing, documents the Tenant submitted with the Application, and 4 photographs submitted to the Residential Tenancy Branch on November 23, 2015 were served to the Landlord, via registered mail. The Property Manager acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

The Tenant stated that the Notice of Review Hearing was served to the Landlord, via registered mail, although she cannot recall the date of service. The Property Manager acknowledged receipt of this document.

On December 30, 2015 the Landlord submitted 3 pages of evidence to the Residential Tenancy Branch. The Property Manager stated that this evidence was served to the Tenant, via registered mail, on December 13, 2015. The Tenant acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

Is there a need for an Order requiring the Landlord to make repairs to the rental unit?  
Has there been a rent increase that not comply with *Residential Tenancy Act (Act) or Regulation?*

Is the Tenant entitled to compensation for moving costs and/or damaged property?

Background and Evidence

The Landlord and the Tenant agree that:

- this tenancy began on June 15, 2015;
- on June 01, 2015 the Landlord and the Tenant entered into a written tenancy agreement, in which the parties agreed rent of \$695.00 was due by the first day of each month;
- on June 15, 2015 the parties amended the written tenancy agreement to indicate the rent would be \$725.00;
- the Tenant was informed the rent would be increasing because new carpet had been installed; and
- the Tenant has paid the rent of \$725.00 since the beginning of the tenancy.

The Tenant is disputing the rent increase to \$725.00.

The Property Manager stated that sometime between June 01, 2015 and June 10, 2015 she informed the Tenant that rent would be \$725.00 and that the Tenant agreed to proceed with the tenancy.

The Tenant denies agreeing to the increased rent prior to June 15, 2015. She stated that she was advised of the increased rent on June 15, 2015 just prior to moving her property into the rental unit.

The Tenant is seeking \$2,476.00 to replace her bedding, a mattress, a sofa, and a loveseat. She stated that she has replaced some of her bedding because she was unable to clean it and she believes her sofa and loveseat need to be replaced as a result of a bedbug infestation. The Tenant submitted no receipts or estimates that establish the value of the items for which she is seeking compensation.

The Landlord contends that any bedding that was stained as a result of bed bug bites should come clean with bleach. The Tenant stated that she soaked the bedding in bleach and then washed it in hot water but the stains remained.

In support of her claim for compensation for bed bugs the Tenant stated that:

- on September 08, 2015 she reported a bed bug infestation to the Landlord;
- the rental unit was fumigated shortly after that initial report;
- on, or about, September 24, 2015 she again reported bed bugs to the Landlord;

- the rental unit was fumigated shortly after the second report;
- she reported bed bugs to the Landlord a third time, although she cannot recall the date;
- the rental unit was fumigated for a third time on November 20, 2015;
- shortly before Christmas she observed one live bed bug, but she did not report it to the Landlord;
- after the unit was fumigated on November 20, 2015 she did not report any other problems with bed bugs;
- the pest control company has inspected the rental unit between the fumigations;
- she was told that her bedframe made it difficult to eradicate the bed bugs;
- the bedframe has sentimental value for her and she is not willing to discard it;
- she eventually agreed to store the bedframe in a storage area she rents from the Landlord; and
- the Landlord gave her a metal bedframe and box spring to replace her bedframe.

In response to the claim for compensation for bed bugs the Building Manager stated that:

- there was a problem with bed bugs in the rental unit prior to the start of this tenancy;
- the Landlord removed the carpet and baseboards from the rental unit prior to the start of this tenancy;
- the rental unit was fumigated by a pest control company prior to the start of this tenancy;
- the Landlord believed the bed bug problem had been remedied prior to the start of this tenancy;
- the Tenant was advised of the previous bed bug problem prior to entering into the tenancy agreement;
- on September 08, 2015 the Tenant reported a bed bug infestation;
- the rental unit was fumigated on, or about, September 10, 2015;
- the pest control technician advised the Landlord that the Tenant's bedframe made it difficult to completely eradicate the bed bugs;
- the rental unit was fumigated again on September 30, 2015;
- the pest control technician again advised the Landlord that the Tenant's bedframe made it difficult to completely eradicate the bed bugs;
- the rental unit was inspected by a pest control technician on October 14, 2015, who again reported his concerns about the Tenant's bedframe;
- the Tenant was not initially willing to move her bedframe but she eventually agreed to store it in a storage locker she rented from the Landlord for an additional \$10.00 per month;
- the rental unit was fumigated again on November 20, 2015, after the Tenant removed her bedframe;
- the Landlord gave the Tenant a metal frame and a box spring to replace her bedframe;

- the pest control company has periodically checked the rental unit since November 20, 2015 and have found no evidence of recent activity; and
- the most recent inspection was February 26, 2015.

At the hearing the Tenant withdrew her claim for \$600.00 in moving costs, as she has not yet moved out of the rental unit.

The Tenant stated that her application for emergency repairs related to the need to fumigate the rental unit.

### Analysis

On the basis of the undisputed evidence I find that on June 01, 2015 the Landlord and the Tenant entered into a written tenancy agreement, for which the Tenant agreed to pay monthly rent of \$695.00, effective June 15, 2015.

Section 42(1)(a) of the *Act* stipulates that a landlord must not impose a rent increase for at least 12 months after the date on which the tenant's rent was first established under the tenancy agreement. As the rent for this rental unit was agreed upon on June 01, 2015, I find that the Landlord did not have the right to increase for at least 12 months. I therefore find that the Landlord did not have the right to increase the rent to \$725.00 and that the Tenant is only required to pay monthly rent of \$695.00 until the rent is increased in accordance with the *Act*.

I note that rent cannot be increased within the first year even if the Tenant agrees to the increase.

Section 43(5) of the *Act* stipulates that if a landlord collects a rent increase that does not comply with the legislation, the tenant may deduct the increase from rent or otherwise recover the increase. Pursuant to section 43(5) of the *Act*, I find that the Tenant is entitled to a rent refund of \$270.00 for the period between July 01, 2015 and March 31, 2016 and to a rent refund of \$15.00 for June of 2015.

Section 32(1) of the *Act* requires landlords to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and, having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant. In my view this section requires a landlord to treat a residential complex for bed bugs when they are detected.

I find that the Landlord acted reasonably and responsibly when the Landlord replaced the carpet and baseboards in the unit prior to this tenancy and when they had a pest control company fumigate the rental unit prior to the start of this tenancy. I find it reasonable for the Landlord to conclude that the problem had been resolved after taking these actions.

I find that the Landlord acted reasonably and responsibly when the Landlord fumigated the rental unit each time the Tenant reported bed bug activity and when they periodically inspected the unit to monitor the problem. In the absence of evidence to show that the Landlord ignored their responsibility to fumigate the rental unit when I appropriate, I cannot conclude that the Landlord failed to comply with section 32(1) of the *Act*.

Section 67 of the *Act* authorizes me to order a landlord to pay money to a tenant when the tenant suffers a loss as a result of the landlord not complying with the *Act* or the tenancy agreement. While I accept that the Tenant suffered a loss as a result of the bed bug infestation, I cannot conclude that the loss was the result of the Landlord's failure to comply with section 32(1) of the *Act*. When landlords or tenants suffer a loss that is not the result of the other party failing to comply with the *Act*, neither party is entitled to compensation for the loss.

As the Tenant has failed to establish that the Landlord failed to comply with section 32(1) of the *Act* in regards to the bed bugs, I dismiss the Tenant's claim for compensation for bed bugs.

As the Landlord has demonstrated their intention to respond appropriately to the bed bug problem and to continue to monitor the situation, I find there is no need to issue an Order requiring the Landlord to respond to the problem.

I find that the Tenant's Application for Dispute Resolution has merit and that she is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

The Tenant has established a monetary claim, in the amount of \$335.00, which is comprised of a rent refund of \$285.00 and \$50.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Tenant a monetary Order for the amount of \$335.00.

The Tenant has the option of reducing one monthly rent payment by \$335.00 or enforcing this Order through the Province of British Columbia Small Claims Court.

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: March 25, 2016

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Residential Tenancy Branch