



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nacel Properties and Cascadia Apartment Rentals Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, FF, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and to recover the filing fee from the landlords for the cost of the application

The 2 individual named landlords attended the hearing, one of whom acted as agent for the landlord companies. One of the tenants also attended, and represented the other tenant. All parties in attendance gave affirmed testimony and were given the opportunity to question each other.

The parties also agreed that all evidence has been exchanged, and all evidence provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for devaluation of the tenancy due to pests in the rental unit?

### Background and Evidence

**The tenant** testified that this fixed term tenancy began on April 1, 2015 and expired on March 31, 2016 at which time the tenants moved out of the rental unit. Rent in the amount of \$1,395.00 per month was payable on the 1<sup>st</sup> day of each month in addition to \$25.00 per month for parking, and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$697.50 which was returned to the tenants other than about \$200.00 for the cost of new blinds, which the tenants had agreed to. The rental unit was a townhouse with an

attached garage and fenced yard, and a copy of the tenancy agreement has been provided.

The tenant further testified that the rental unit had a mouse problem, and the parties had a discussion about ending the tenancy, but the tenants didn't get permission in writing to end it early, so the tenancy continued. Copies of emails have been provided. However, the tenants could not stay due to mice living all over the place. On October 20, 2015 the tenant notified the landlords by email about mice and asked for someone to take a look. The landlords sent over a regular building maintenance person, likely the same day, but nothing was done. No traps were set and the infestation got incredibly worse. Mice were in the kitchen, in cupboards, running on counters while the tenant cooked, in the fireplace, upstairs bedroom, running across the carpet, in the furnace room, master bedroom, and the tenants kept finding droppings all over the place. The tenants had a baby and a 4 year old child.

The tenant suffered from anxiety due to the mice and asked the landlords for a pest control company to attend, but they would only send the regular maintenance man saying a pest control company would do the same thing. The tenant found a pest control company but needed permission from the landlords. The pest control person told the tenant that when speaking to the landlords, they wanted to know what the pest control would do so they could do it themselves, and the pest control person would not attend because he wouldn't get paid. The resident manager of the landlords said the landlords had their own pest control company and she would talk to the landlord company about having someone attend.

On December 2, 2015 a pest control person attended and conducted an inspection. A copy of a report has been provided. The person located evidence and found that the regular maintenance person had patched up holes in the washrooms and furnace room as needed and recommended that steel wool be stuffed into the wall behind the stove. The report was emailed to the landlords' resident manager. The tenant asked for a copy because the mice didn't go away and the tenant hadn't seen any traps.

The mice kept coming and the pest control company of the landlords came back and set traps around the 9<sup>th</sup> of December, 2015. The tenants had plans for guests but had to cancel due to the mice.

The tenants had to stay elsewhere, such as the tenant's mother's Bed and Breakfast, which is a home-based business. The tenant also stayed at motels, and went back and forth, and various places during that period.

The tenants claim the costs for motels, bed and breakfast stays, storage bins, cleaning and sanitizing, loss of clothing, furniture and various items, as well as \$1,827.15 as a rent reduction, for a total claim of \$8,342.33. Copies of receipts and invoices have been provided. However, the other tenant had photographs in his cell phone but lost it because he travels, and therefore, no photographic evidence is available.

**The landlord** testified that from October 20, 2015 to the end of March, 2016 the landlords inspected the rental unit 18 times according to maintenance requests, copies of which have been provided. Responses to the tenants' requests were immediate except on weekends. When the landlords receive an email on Fridays after business hours, the maintenance requests would be dealt with on the following Monday. The landlord talked to the tenant on the phone on a weekend, and trying to resolve the complaint, the landlords offered to break the lease without penalty, but the tenant's response in her email of January 26, 2016 says that the tenants didn't want to move, and never gave the landlords notice to vacate the rental unit. On December 7, 2015 the tenants asked if they could have a cat, and although there is a no pet policy, the landlords agreed.

The landlord further testified that the landlords believed the mice "re-appeared" after the parties had an email exchange about continued late rent payments, and refers to emails between the landlord and the tenant in August and September, 2015. Maintenance requests were made, and traps were set, but nothing was found in any traps and there was no visible activity.

The landlords tried to find out how many times the tenants stayed at a Bed and Breakfast because the receipt the tenant provided didn't add up to the number of days claimed. The receipt has no address or taxes charged, and whenever the landlord called, the landlord was always transferred to voice mail of the tenant's mother, and there was never room to leave a message, nor was there a message for callers to book a room. A CD has been provided recording the attempts.

**The landlords' agent** testified that there were no mice until 6 months after the tenant moved in, and in the person's opinion, mice are attracted by the way a person keeps a home.

The landlord's agent also questions the receipts that the tenant has provided for accommodation, and suggested that one of the places is actually a café. Further, if the tenant's mother had a business, such an announcement would be on the answering machine. The landlord's agent submits that all evidence, statements and receipts are provided because the tenants wanted to buy new furniture and wanted the landlords to

pay for the tenants' move. There is no evidence of bites or marks on furniture, no evidence of damage to any items whatsoever.

There was no evidence of mice in the adjoining units.

### Analysis

Where a party makes a monetary claim against another party for damages, the onus is on the claiming party to establish that the claiming party suffered a loss, that the damage or loss suffered was a result of the other party's failure to comply with the *Act* or the tenancy agreement, the amount of such damage or loss, and what the claiming party did to mitigate any damage or loss suffered.

I have reviewed the evidentiary material of the parties, and in particular the reports of the pest control company stating that all areas of concern were inspected and evidence of mouse activity was found, but no mice were ever caught. Certainly if there were mice as described by the tenant, something would have been caught. Also, considering the Maintenance Requests and the reports provided, I am satisfied that the landlords did what the landlords are required to do. A landlord is required to provide and maintain rental premises in a state of decoration and repair that makes it suitable for occupation. There is no evidence that any mice were caught, and no evidence that the landlords failed to comply with the *Act*. Therefore, I dismiss the tenants' application.

### Conclusion

For the reasons set out above, the tenants' application is hereby dismissed.

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: October 31, 2016

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Residential Tenancy Branch