



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Meicor Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, OLC, RP, RR, O

### Introduction

This hearing dealt with an application by the tenant for orders compelling the landlord to comply with the Act, regulation or tenancy agreement and to make repairs; to reduce the rent for facilities or services agreed upon but not provided; and a monetary order. Both parties appeared and gave affirmed evidence. No issues regarding the exchange of evidence were identified.

### Issue(s) to be Decided

- What orders, if any, should be made against the landlord and on what terms?
- Should a monetary order be made in favour of the tenant and, if so, in what amount?

### Background and Evidence

This month-to-month tenancy commenced February 1, 2016. The monthly rent of \$800.00 is due on the first day of the month. The landlord holds a security deposit of \$400.00.

The rental unit is a one level two bedroom apartment located on the main floor. All of the units in this complex are privately owned condominiums. The landlord is the property manager for the units that are rented, including this one, and the strata manager of the complex.

The tenant is a single mother with two very young children; one is not quite two years old and the other is six months old. Her baby has Down's syndrome and respiratory problems.

The landlord testified that they have a standing contract with a pest control company. As strata managers they arrange for pest control for the complex subject to two caveats: if a unit is owner occupied the owner must give them permission to enter and they have to rely on information reported by owners and/or tenants.

One night in July the tenant got up late at night, went into her kitchen, and noticed something. On investigation she discovered there were cockroaches in her unit. She reported this to the building manager the next day. The landlords testified that this was the first time they have experienced cockroaches in the complex.

Within a few days pest control sprayed the tenant's unit. The tenant and her children had to leave the unit for 24 hours. They stayed with a friend in another community. The tenant testified about the difficulties she encountered during that stay.

The building manager testified that after the unit was sprayed she spoke to the residents of the unit above the tenant and all the other units in this building. No one reported seeing any cockroaches. She also inspected the unit above the tenant's and did not see any signs of cockroaches.

After a couple of weeks the tenant reported that there was still a problem in her unit. Finally, the pest control technician insisted on inspecting the unit above the tenant's and discovered there was a serious infestation. He also reported that this unit was the source of the problem. That unit was treated by pest control on August 15 and September 2. The landlords testified that pest control has reported that the unit above the tenant's is under control.

The landlord has approached the tenant twice about treating her unit again. The tenant has refused on both occasions. She is not averse to having the unit treated; the difficulty is the requirement to vacate the unit. She testified that she does not have anyone to stay with and wants the landlord to put her up in a hotel while the unit is being treated. The landlord says that is not their policy.

Meanwhile the cockroach problem persists in the tenant's unit. Both parties say they have been talking to the neighbours. The building manager says no one is reporting the presence of cockroaches; the tenant says several are. There is no evidence that pest control has inspected any of the adjoining units.

The tenant asked that the refrigerator be replaced. The seal is broken and the cockroaches are getting into it. The landlord says there is no point in replacing the refrigerator until the cockroach problem is resolved.

The tenant had an experience with a rat in her unit in September. The history is that the owner of an adjoining unit moved back into her unit and gutted and renovated the bathroom in the spring. The two units have a joint wall between the bathtubs. When

the neighbour pulled out her tub she discovered that rats had nested under the bathtub. She reported the situation to the landlord but took care of the pest control on her own.

The landlords reported that rats are a seasonal issue as the rodents move out in the spring and summer and attempt to move inside in the fall.

After the tenant reported the rat the landlord's handyman made some repairs to the common wall. The tenant testified that she has not observed any rat droppings or any other indicators of rats in her unit since the repair was made. She also reported that when she first moved into her unit there was a very strong ammonia smell in the bathroom, which disappeared after the neighbour completed her renovation.

The tenant did complain to the local health authority, who conducted an inspection of the building. They did prepare a written report but the tenant was not able to pick it up and file it in evidence for the hearing. Both parties gave conflicting versions of the inspector's findings. The landlords testified about the traps that are in place in various parts of the building and the fact that nothing has been caught since the tenant reported her experience.

### Analysis

Section 32(1) of the *Residential Tenancy Act* states that a landlord must 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.

The evidence is clear that both the landlord and the tenant want to have the rental unit professionally treated for cockroaches. However, an impasse has arisen because the tenant has insisted on assistance with relocation during the treatment.

Not only is it the landlord's responsibility to eliminate the cockroach problem in the tenant's unit but it is also to prevent the spread of the pests to any other units in the building. If the pests do spread to other rental units there is a risk that other tenants will apply for orders reducing their rent until the problem is eliminated and be successful on those applications. Mitigating this risk is a good business practise as well as a legal responsibility.

In the particular circumstances of this tenant's situation – very young children, one with health difficulties; limited financial resources; and apparently no outside help; - **I order the landlord** to provide the tenant and her children with alternate accommodation for a

24 hour period on each occasion that the rental unit is being treated for cockroaches. My reasoning for this order is that if the cockroach problem is not addressed promptly the potential liability of the landlord as set out above is far greater than the cost of one or two nights in a hotel room, particularly at this time of year. I have also given substantial weight to the fact that the evidence established that the tenant is not responsible for the situation.

This order should not be interpreted as a general requirement that the landlord provide alternate accommodation for every tenant who has to vacate their unit while it is being treated for cockroaches. This order reflects the particular situation of this tenant and the potential risk to the other residents of the building if pest control is further delayed because of her situation.

As the tenant has a limited income having the tenant pay for the hotel and compensating for her after the fact may not be the most practical procedure. Accordingly, I order the landlord to make the necessary arrangements with the nearest “family-friendly” hotel and to pay the hotel directly for the cost of accommodation. I want to make clear that the tenant is responsible for her own food costs while she is away from her unit; the landlord is only responsible for the cost of accommodation.

In the hearing there was conflicting opinions expressed as to whether the cockroaches have spread to any other units. The landlords relied on the reports from the occupants of the adjoining units and the inspections of the building manager. I point out that this was the procedure followed in relation to the unit above the tenant’s - the occupants said repeatedly that they did not have cockroaches and the resident manager did not note anything during her inspection – but when the pest control technician inspected the unit he found an infestation and the source of the problem. As a result, I have no confidence in the self-reporting of the neighbours.

**I order the landlord to:**

- have the units adjoining the rental unit inspected by a qualified pest control technician within four weeks of receiving this decision;
- obtain a written report from the technician of the results of his inspection;
- provide a copy of the report to the tenant within two weeks of receiving it; and,
- implement the pest control company’s recommendations as soon as possible.

The evidence does not disclose a current problem with rats so no order will be made in that regard.

The landlord's testimony seemed to indicate that the refrigerator will be replaced after the cockroach problem is eliminated so no order regarding the refrigerator will be made at this time.

As the tenant's inability and/or refusal to vacate the unit contributed to the delay in treatment no order for rent reduction or a monetary order will be made at this time.

If the landlords do not comply with the orders made within a reasonable period of time and do not replace the refrigerator within a reasonable period of time after the cockroaches have been eliminated, the tenant made apply to the Residential Tenancy Branch for whatever orders may be appropriate including an order reducing past or future rent.

As the tenant did not pay a fee to file this application no further order is required.

#### Conclusion

A variety of orders as set out above have been made. Some of the tenant's applications have been dismissed with leave to re-apply.

*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: November 15, 2016

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Residential Tenancy Branch