Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: MNDC

Introduction

This hearing dealt with 10 Applications for Dispute Resolution that were filed by tenants seeking monetary compensation from the landlord for damage or loss under the Act, regulations or tenancy agreement. The Applications were joined together and set to be heard at the same time as the Applications concern the same property, the same landlord, similar facts and similar remedies.

The parties that attended each of the hearing dates are recorded on the cover page of this decision. The tenants have been identified by their initials in the body of this decision but their identity may be cross referenced with the cover page of this decision.

The hearing process was explained to the parties. All parties were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, to ask questions, and to respond to the submissions of the other party.
I was presented and heard a considerable amount of submissions and evidence from the parties. I have considered everything presented to me; however, with a view to brevity in writing this decision, I have summarized the parties' respective positions and captured only the most relevant facts and evidence.

The hearing was held over two dates. Preliminary and Procedural Matters, including the issue of jurisdiction, were heard during the first hearing date. The hearing was adjourned and an Interim Decision was issued shortly thereafter along with Notices of Adjourned Hearing. The Interim Decision captures the preliminary and procedural matters addressed during the first hearing date. The Interim Decision should be read in conjunction with this decision.

Procedural Matters were also raised during the reconvened hearing, as described below.

Procedural Matter – Correction of typographical error

At the commencement of the reconvened hearing, the tenants' Advocate requested that a typographical error in the written submission be corrected. The Advocate stated that the word "not" was erroneously omitted in the last sentence of paragraph 45. In reading the written submission in its entirety, and in keeping in context with the rest of the submissions, I find it readily apparent that the word was omitted in error and I permitted and recorded the correction.

Procedural Matter – Absent Tenants

Two of the applicants did not appear at the reconvened hearing. As noted in the Interim Decision failure to appear for the reconvened hearing may result in the application being dismissed.

The tenants' Advocate requested that I accept the sworn statements of LH and NLR and the common facts presented by the other tenants and make a decision granting their applications; or, as an alternative, dismiss their applications with leave to reapply.

One of the absent tenants, LH, had appeared at the first hearing but did not appear at the reconvened hearing. I was informed that LH had died a couple of weeks prior to the reconvened hearing. There was no personal representative of LH's estate at the reconvened hearing. Since LH did appear at the first hearing I am satisfied that he intended to pursue the claims against the landlord; however, without a representative for the estate present at the reconvened hearing, I cannot amend the LH's application to properly name the estate. Residential Tenancy Policy Guideline 43: *Naming Parties* provides information for naming a deceased applicant. The policy guideline provides, in part:

> Where a party to an Application for Dispute Resolution is deceased, the personal representative of the deceased's estate must be named.
>
> If the applicant does not know the name of the deceased's personal representative at the time of filing an Application for Dispute Resolution, the deceased's name can be filled in on the application (e.g. John Doe, deceased). At the hearing, the arbitrator may amend the application to reflect the proper name of the estate.

> The personal representative may be the person named as executor in the deceased's will, or the person who has been approved by the court to administer the estate by way of an estate grant.
>
> The proper manner of naming the estate is as follows: John Smith, Personal Representative of the Estate of Mary Jones, Deceased.

The other absent tenant, identified by initials NLR was absent from the first hearing and the reconvened hearing. I dismissed NLR's application without leave considering NLR did not appear at either one of the hearing dates.

In light of the above, the rest of this decision pertains to the remaining eight applications before me.

Issue(s) to Determine

Have the tenants established an entitlement to compensation from the landlord for damage or loss under the Act, regulations or tenancy agreement as claimed?

Background and Evidence

The subject property includes a low-rise building that was built and zoned for use as a hotel or motel. The tenants before me have occupied rooms in this building as their ordinary residence for various lengths of time ranging from eight months to several years. As provided in the Interim Decision, I have found that the applicants are tenants and the rooms they occupied are herein referred to as "rental units". The rental units provided to the tenants were furnished and included a bed, a dresser, and television. Some tenants brought fridges and cooking appliances such as a microwave into the rental units. The tenants' rent obligation ranged from $400.00 to $500.00 per month, payable by the first day of every month.

Below, I have described the most relevant sequence of events that lead to this dispute. Although I was provided a great deal of details in the submissions, I have recorded the following in summary form for the most part.

Starting in October 2014 the property was subject to frequent inspections by the City's by-law and building inspectors and the fire department. As a result of the inspections, numerous health and safety concerns, building code infractions, and zoning issues were raised to the landlord's attention. Follow-up inspections took place and many issues remained unresolved or new issues were discovered. The building was determined to

be such a fire hazard that the landlord was ordered to have a 24/7 fire watch on each floor.

Following a meeting between the landlord's agent(s) and City staff on May 14, 2015, the City's staff recommended to City Council that the property is declared unsafe; that the landlord prevents access to the building on or before June 15, 2015; and, the landlord be ordered to secure entry and disconnect the building from all services within 30 days.

On May 15, 2015 the landlord issued letters to the tenants to notify them they were required to deliver possession of the rental unit to the landlord by June 15, 2015 due to the following reasons:

- long term residence is not permitted under the zoning by-law;
- extensive repairs and renovations are required to meet current bylaws and building codes for public health and safety; and,
- the repairs and renovations are considered "Major Construction" which would not allow residents to remain.

At the May 25, 2015 Executive Meeting of the City Council, the City's staff recommendations, as described above, were passed. The landlord was notified of this by way of a letter from the City dated May 27, 2015. The letter from the City included orders to the landlord to prevent access to the building on or before June 15, 2015 and secure the entry and disconnect services to the building within 30 days of receiving the order.

On June 4, 2015 the landlord issued a reminder notice to all occupants that they were required to leave the property by June 15, 2015. On June 4, 2015 one of the tenants, BM, contacted the Residential Tenancy Branch and learned that in order for the landlord to end the tenancy under the Act, the landlord would have to issue a Notice to End Tenancy. Also on that date, BM wrote a letter to the landlord that the landlord is required to give the tenants a 2 Month Notice and referred to a form number that corresponds to a *2 Month Notice to End Tenancy for Landlord's Use of Property* published by the Residential Tenancy Branch. The landlord responded on June 4, 2015 acknowledging receipt of the letter and indicated that the Residential Tenancy Act did not apply the living accommodation. The landlord's letter goes on to state: "…we have received a resolution from [name of City] that requires us to close and prevent access to the [name of property], on or before 15 June 2015. As a result, all occupants of [name of property] are legally required to vacate the premises by 15 June 2015."

On June 8, 2015 a tenant Advocate became aware of this situation at the property and the Advocate contacted the City. The Advocate was informed by the City, erroneously, that there was no order had been issued to the landlord that would require the tenants to vacate.

On June 11, 2015 an Application for Dispute Resolution was received from the tenants seeking an Interim Order that the Residential Tenancy Act applied to the rental units. On that same day, an Arbitrator reviewed the ex-parte submissions of the applicants and issued a decision that there was sufficient evidence to indicate the Act applied to the rental units. The tenants' Advocate received that decision on June 12, 2015.

The tenants' Advocate met with City staff on June 12, 2015 and on this date learned that there was in fact an order had been issued that would restrict the tenants' access to the property after June 15, 2015.

The landlord did not require the tenants to pay rent for the period of June 1 - 15, 2015 and security deposits were refunded to most of the tenants. The landlord also offered the tenants assistance with transportation of their personal possessions, upon request, as seen in the landlord's notices of May 15, 2015 and June 4, 2015.

The tenants' claims for compensation and the landlord's position are described below.

Tenants' claim for compensation

The tenants' claim for compensation has three components. Below, I summarize the parties' respective positions under each component:

1. Tenant's compensation payable under section 51 of the Act

The tenants' Advocates argue that as of May 15, 2015 the landlord had not been ordered to close the property and since the landlord pointed to "major construction" in the letter of May 15, 2015 the landlord would have had to end the tenancies by serving the tenants with a *2 Month Notice to End Tenancy for Landlord's Use of Property* under section 49 of the Act. Under section 51 of the Act, a tenant in receipt of a 2 Month Notice given under section 49 is entitled to compensation equivalent to one month of rent. Six of the eight applicants received the benefit of living in the rental unit and not paying rent for June 1 – 15, 2015, or one-half of a month, and are seeking compensation for another one-half of a month's rent so as to receive the full benefit of one month's rent.

Tenant MG moved out of the property on June 1, 2015 and seeks compensation equivalent to one month's rent since he did have the benefit of living one-half of a month in the rental unit for free. MG testified that he moved out on June 1, 2015 because he could not bear to live with the bed bug infestation any longer.

Tenant DP testified that he paid rent to the landlord on June 1, 2015 as he was of the position the Act applied and he did not want his tenancy ended for unpaid rent. DP claims he paid rent in cash and was not issued a receipt but that the landlord's staff person wrote the payment in the "master book".

In the written submissions of the tenants' Advocate, it is acknowledged that a Notice to End Tenancy may have been issued under section 47 of the Act after the City ordered the landlord to restrict access to the property on May 27, 2015.

It was apparent from the landlord's submissions during the initial hearing, that the landlord was of the position that the Act did not apply to their agreements with the tenants and they had been ordered to close the doors by the City no later than June 15, 2015.

The landlord's General Manager testified that some of the tenants had not even paid all of their rent for May 2015 and the landlord did not pursue the tenants for those rents. When the General Manager was asked which tenants did not pay the full amount of rent for May 2015 the General Manager stated that the accounting records would have to be reviewed in order to determine that. The tenants' Advocate pointed out that the landlord has had time to review its records and has not done so yet.

The tenants' Advocate questioned whether the landlord had sought an extension from the City to which the landlord's agent responded that the landlord had asked for a three month extension and the request was denied.

2. Aggravated damages

The tenants seek aggravated damages due to the unlawful manner in which their tenancies were ended; and, the landlord's neglect and failure to maintain the property which resulted in the closure of the building and the tenants' loss of a home.

The tenants' Advocate submitted that the City ordered the building to be closed due to the landlord's deliberate disregard for the Act and failure to comply with multiple orders from the City and fire department. The tenants' Advocate also pointed out that many tenants were left scrambling to find alternative accommodation with only three days of

notice starting June 12, 2015, the date they learned from the City that in fact an order restricting access had been issued. The tenant's Advocate submitted that the landlord could have easily provided a copy of the order to the tenants with the communication issued to the tenants on June 4, 2015, or before.

The tenants' Advocates submitted that the suffering experienced by the tenants was great; largely due to the tenant's low-income and vulnerable status which ought to have been reasonably foreseeable by the landlord. All of the tenants indicated to me during the hearing that they suffered a great deal of stress due to the uncertainty and inability to find alternative accommodation that was affordable and on such short notice. Some tenants left belongings behind at the property because they had nowhere to take them and could not afford storage and because much of their property was infested with bed bugs. Two of the tenants before me, CW and DP, were able to secure alternative housing immediately after the property closed but the remainder did not. Those that did not went to homeless shelters immediately after the building closed and one stayed on a couch in his son's home.

By way of the written submission, the tenant who did not secure housing right after the building closed suffered loss of privacy, stress and discomfort from not having a private home of their own and these tenants seek aggravated damages of $4,000.00 from the landlord. I heard that the difficulty in securing new housing was largely attributed to insufficient notice given by the landlord, the lack of affordable housing in the region, some tenants had pets, and the tenants are on Income Assistance and many landlords are resistant to rent to people on Income Assistance. One tenant, referred to initials MP, described how he eventually had to travel to a small town in order to find affordable housing that would accept his pet cat.

Tenants CW and DP were able to secure new housing after the building closed that was better than a shelter bed or couch in someone else's home, and they seek aggravated damages of $2,000.00 for the stress and uncertainty that faced in having to find alternative accommodation on short notice. CW explained that a society helped her find alternative accommodation although she found it to be inferior to the rental unit she had at the subject property. DP testified that he found new housing after placing a call to a friend who put him in touch with a landlord that had a basement suite available, although it needed work.

The tenants' Advocate explained that the amount of compensation sought was determined upon reviewing previous decisions issued by Residential Tenancy Branch. However, copies of those decisions were not provided for my review.

The landlord's agent responded by stating that there was no maliciousness on part of the landlord and indicated that it was a tough decision to close the property. The landlord pointed out that the tenants were given as much notice by the landlord as possible. Although the City did not give the official order to close the property until the meeting of May 25, 2015 the landlord was aware of the recommendations being put forth to the council by the City staff on May 14, 2015 and the landlord gave the tenants notice on May 15, 2015 so as to give the tenants as much time as possible to make arrangements.

The landlord was of the position that efforts were made to comply with the City's compliance and repair orders that came after every inspection. The landlord submitted that thousands of dollars was spent in doing so, including payments to one of the tenants to make repairs to the balconies.

The landlord pointed out that rent was not charged for June 2015 and security deposits were returned upon request, in an effort to aid the tenants to secure new housing. Further, the landlord offered assistance to the tenants by way of moving trucks and helping tenants find new housing, but the landlord was of the position that the tenants appearing for this proceeding did not seek this help from the landlord. I heard that efforts to find new housing for tenants included telephoning other properties in the area that were of a similar price range as the subject property and placing an on-line advertisement.

A few of the tenants also rebutted the landlord's position that moving trucks were available to them by the landlord, claiming that when they requested use of the moving trucks they were told the trucks were not available.

The tenant's Advocate questioned the landlord's efforts to comply with the inspection orders, pointing to a five page Order from the Fire Chief on May 15, 2015 whereby reference is made to issues that were raised during previous inspections that remained outstanding.

3. Rent abatement

The tenants seek a rent abatement of 20% of their monthly rent for the seven months of November 2014 through May 2015 as this is the period that the landlord was made aware of outstanding health and safety repair issues following the inspections by the City staff and fire department.

The inspections by the City staff and fire department largely focused on electrical components, plumbing, lighting, smoke detectors, and rotting decks and building components. The tenant's Advocate submitted that these issues made the property unsafe for their use and despite the multiple inspections the issues remained outstanding until the building was closed. However, during the hearing and in their written submissions, the tenants' primarily complained about bed bugs and rodent infestations. The tenants testified that they had complained to the landlord's staff persons about bed bug and mice infestations. In response, the landlord's staff would provide bottles of pesticide for the bed bugs and mattress covers in some cases and traps were provided to the tenants for them to kill mice.

One tenant, ST, pointed out that the lack of lighting in the common area contributed to him being attacked on the property in October 2014 since he did not see his attacker approaching. ST claims to have gone to a doctor at a medical clinic but did not produce any medical records. Nor, was there any evidence a police report was made.

The landlord testified that prior to the inspections that started in the fall of 2014 the building had been inspected annually and had passed inspections; however, the City's inspections that stated in the fall of 2014 were more rigorous for some reason. The landlord tried complying with the repair orders and spent thousands of dollars in the process but every time the City staff would attend they would add new issues to the list of deficiencies.

The landlord acknowledged that the property had problems with bed bugs and mice but pointed out that it is common for low-rent properties in the region to be plagued with bed bugs and pests.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. 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.

Upon consideration of everything before me, I provide the following findings and reasons as to each component of the tenants' monetary claims.

1. Tenant's compensation under section 51 of the Act

The tenants' Advocates argued that the tenants should have benefited from compensation under section 51 of the Act, equivalent to a month's rent, and that most tenants only received a benefit equivalent to one-half of a month's rent.

I am not persuaded that the tenants are entitled to receive compensation under section 51 of the Act. First of all, compensation payable to a tenant under section 51 applies where a tenant has received a 2 Month Notice to End Tenancy for Landlord's Use of Property under section 49 of the Act. The tenants in this case did not receive a 2 Month Notice under section 49. As pointed out by the tenants' Advocate, section 7 of the Act provides that a party cannot avoid the Act, including use of an appropriate Notice to End Tenancy; however, I am not persuaded that the tenancies ought to have been ended by way of a 2 Month Notice, as argued by the Advocate, as explained below.

The tenants' Advocate argued that the landlord would have been required to serve the tenants with a 2 Month Notice in order to complete "major construction" as indicated in the landlord's letter to the tenants dated May 15, 2015. I find this position is not entirely accurate. A tenancy may be ended under section 49(6) where the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

> (a) demolish the rental unit; or,
> (b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant

I was not presented evidence to suggest the landlord had any permits or approvals in place to do "major construction" such as demolition or major renovations or repairs that would require vacant possession of the rental units. Accordingly, I am not persuaded that the landlord was in a position to issue a 2 Month Notice and should pay the tenants compensation as if they had been served a 2 Month Notice.

Rather, it would appear to me that the only available means to end these tenancies by way of a Notice to End Tenancy would have been by way of a 1 Month Notice to End Tenancy issued under section 47(1)(k) of the Act. Section 47(1)(k) provides that a tenancy may be ended where: "the rental unit must be vacated to comply with an order

of a federal, British Columbia, regional or municipal government authority". The City has issued an order to the landlord on May 27, 2015 to prevent occupancy of the building after June 15, 2015. I note that the tenants' Advocate also appeared to acknowledge that the tenancies may have been ended under section 47 of the Act in the written submissions.

Where a landlord issues a 1 Month Notice, the earliest the Notice would be effective one full month after the Notice is given, and on the day before rent is due. Since rent was payable on the first day of every month, a 1 Month Notice served between May 27, 2015 and May 31, 2015 would be effective no earlier than June 30, 2015 under section 47 of the Act. Accordingly, I find that these tenancies may have been ended by way of a 1 Month Notice with an effective date of June 30, 2015. Since the building could not be occupied after June 15, 2015 I find the tenants were deprived of 15 days to vacate. The tenants raise the issue of the unlawful manner in which they were evicted and "short notice" in their claim for aggravated damages. As such, I consider the "short notice" further under that component of their claim.

In summary, the tenants were not issued a 2 Month Notice that would entitle them to compensation payable under section 51 of the Act. The tenancies could have been ended lawfully by way of a 1 Month Notice issued under section 47(1)(k) of the Act; however, there is no compensation payable for tenants in receipt of a 1 Month Notice. Therefore, I must dismiss the tenants request for compensation payable under section 51 of the Act.

2. Aggravated damages

As provided above, I find the landlord was in a position to issue the tenants with a 1 Month Notice to End Tenancy under section 47 of the Act as of May 27, 2015 and the tenancies may have ended as early as June 30, 2015. However, in this case the tenants were required to vacate by June 15, 2015 due to the order issued by the City and this is 15 days sooner than they would have benefited from under section 47 of the Act. Accordingly, I agree with the tenants' position that they were given "short notice".

While I appreciate the building was ordered to be closed by June 15, 2015 and the landlord could not continue to provide the tenants with occupancy until June 30, 2015, I proceed to consider the reasons the building was ordered to be closed in determining whether the tenants are entitled to aggravated damages.

Upon review of the documentation generated by the Fire Department the City inspectors, it is apparent that the building suffered from lack of maintenance for quite a

long period of time and the eventual recommendation to close the building was based upon the buildings unsafe condition and the numerous deficiencies that were not sufficiently rectified by the landlord. I find that the ability and decision to perform ongoing maintenance and to rectify the deficiencies identified by the Fire Department and City inspectors to be solely within the landlord's control. Accordingly, I accept that it is the landlord's actions, or lack thereof, that resulted in the closure of the building.

Notwithstanding the above, I also accept the landlord's position that the closure of the building was not done out of maliciousness or complete disregard for the tenants when I consider:

- the landlord gave the tenants notice that the property would be closing the day after learning the City staff would be making that recommendation to the City Council.
- the landlord provided the tenants with free occupancy of their rental units for the first half of June 2015 even though compensation would not be payable under section 47 of the Act; and,
- the landlord returned the majority of security deposits to tenants in a timely manner after the tenants requested a refund or at the end of the tenancies.

While I accept that short notice to find alternative housing is very stressful and very likely contributed to many of these tenants moving to a shelter or a couch in someone else's home, I also heard of other factors that likely resulted in homelessness that I cannot ascribe to the landlord, such as: lack of affordable housing in the region; the resistance that other landlords have in renting to people on Income Assistance; and, the City providing the tenants' Advocate with erroneous information that an Order had not been issued by the City when in fact one had been.

Having found that the landlord contributed to the loss of housing and the stress suffered by the tenants by failing to maintain the property adequately and allowing the property to become so unsafe it was shut down; and, the landlord gave the tenants less than the full month of notice they were entitled to under the Act, I find the tenants entitled to aggravated damages. Since all of the tenants before me suffered from the same negligence on part of the landlord, I find it appropriate that all of the tenants before me be awarded the same amount in aggravated damages. While I appreciate that several tenants were homeless after the property closed, while others were not, as mentioned previously, I find other factors likely contributed to that outcome and they are beyond the landlord's responsibility. Therefore, I do not consider awarding some tenants more

compensation than others dependent upon their housing situation after their tenancy ended, as requested by the tenants.

The tenants requested $2,000.00 in aggravated damages, in any event. I note that that amount is the equivalent of 4 to 5 months of rent, depending upon the individual rent obligations that range from $400.00 to $500.00 per month. I find that request to be high since the tenants did not experience the aggravation related to the end of their tenancies for that length of time. Based upon the length of time the tenants were likely under exceptional stress due to the improper manner in which their tenancies were ending I find it appropriate to award the tenants damages equivalent to one month's rent.

It is undisputed that most of the tenants before me tenants received the benefit of one-half of a month's rent when they were permitted occupancy of the rental unit between June 1 – 15, 2016 without paying rent. Had the landlord ended the tenancy with a 1 Month Notice, the tenants would not have received compensation. Accordingly, I find the tenants' occupancy for one-half of a month without paying rent to be a form of compensation equivalent to one-half of a month's rent. Therefore, I order the landlord to further compensate all of the tenants, except Tenant MG, the equivalent of one-half of their monthly rent in satisfaction of the award for aggravated damages.

As for Tenant MG, he vacated the rental unit on June 1, 2015 and did not benefit from use of the rental unit from June 1 – 15, 2015. Therefore, I order the landlord to compensate him the equivalent of one full month's rent, or $450.00.

Although Tenant DP claimed to have paid rent for June 1 – 15, 2015, I find I am not persuaded by the evidence before me. It was undisputed that the landlord was not seeking rent from any tenant for the period of June 1 – 15, 2015. This is also consistent with statements of the other tenants including the sworn declaration of Tenant BM who wrote: "On June 1, 2015 I tried to pay my rent and the front desk staff would not accept it. They were not accepting rent from anybody." The landlord's General Manager also stated during the hearing that some tenants were behind in their rent for May 2015 which may explain acceptance of a payment from DP, if one was made. DP stated that he paid rent for June 2015 because he did not want to be evicted for unpaid rent; however, an eviction for unpaid rent would first require the landlord to serve a tenant with a 10 Day Notice to End Tenancy for Unpaid Rent and then the tenant would have five days to pay the outstanding rent. Therefore, I find DP's position that he paid rent for June 1 – 15, 2015 to be very unlikely and I limit the net award to DP to one-half of a month's rent, the same as all of the other tenants except MG.

In summary, I have awarded the tenants aggravated damages equivalent to one month's rent. I have found that all of the tenants to which this decision applies, except MG, have already been compensated the equivalent of one-half of a month's rent. Therefore, I order the landlord to further compensate the tenants as follows:

Tenant	**Aggravated Damages awarded**	**Compensation already received**	**Net Compensation payable**
BM	500.00	250.00	**250.00**
MG	450.00	Nil	**450.00**
DP	450.00	225.00	**225.00**
SW	450.00	225.00	**225.00**
CW	400.00	200.00	**200.00**
ST	450.00	225.00	**225.00**
MP	425.00	212.50	**212.50**
DR	425.00	212.50	**212.50**

3. Rent Abatement

The tenants seek compensation of 20% of their monthly rent for the seven months of November 2014 through May 2015 due to "unsafe and unsanitary living conditions as described in the reports from the City and the Tenants' statutory declarations, including the consistent bedbug and mice problems, reduced the value of their tenancies by 20%".

Section 32 of the Act requires a landlord to provide and maintain a 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.

Given all of the evidence before me, such as the inspection reports and photographs, I find it clear that the property was run-down and suffered from lack of adequate maintenance over a considerable period of time. It was also undisputed that the rental units had bedbugs and mice.

While failure to repair and maintain a residential property is a breach of section 32 of the Act, in order to receive compensation the applicant must establish more than a breach of the Act on part of the other party, as outlined at the beginning of the Analysis. I find the tenants' request for compensation is not sufficiently supported for the following reasons.

The tenants argued that their tenancies were "devalued" by 20%; however, the landlord countered that position by stating that many low-rent properties in the region are plagued by bedbugs and pests. I find the applicants did not provide sufficient information or evidence to demonstrate to me that 20% is a reasonable estimate of devaluation when compared to similar properties.

Further, I find there is a lack of mitigation. Although some of the tenants raised the issue of bed bugs and mice to the landlord's attention during their tenancies, the landlord responded by providing mattress covers, pesticide, and traps to the tenants. While this may not be an adequate response to eradicate the problem, the tenants apparently accepted the landlord's remedy for a considerable period of time without taking any further action such as filing an Application for Dispute Resolution and requesting repair orders.

I note that many of the tenants made statements in their statutory declarations that they did not know their rights; however, ignorance of the Act does not form a basis for a monetary claim and is not a basis to avoid one's obligations under the Act. The onus to familiarize oneself with their respective rights and obligations under the applicable legislation applies to both landlords and tenants.

In light of the above, I deny the tenant's request for a 20% rent abatement on the basis I find the amount sought to be unsupported and a failure to mitigate losses; however, in recognition that the landlord failed to maintain the property as required under section 32 of the Act, I award each of the tenants a nominal award of $1.00.

Conclusion

This decision dealt with 10 Applications for Dispute Resolution filed by tenants of the residential property seeking monetary compensation from the landlord. I found that the tenants were occupying rental units to which the Act applies and I have jurisdiction to resolve these Applications. Of the 10 Applications filed, two were dismissed, as follows: The Application filed by Tenant LH has been dismissed with leave. The Application filed by NLR was dismissed without leave. Of the remaining eight Applications, the tenants were partially successful, as follows.

The tenants have been awarded aggravated damages equivalent to one month's rent. In recognition that seven of the eight tenants have already received compensation from the landlord in an amount equivalent to one-half of a month's rent, the tenants have been provided a net award equal to one-half of a month's rent for aggravated damages. Tenant MG had not received any compensation and his award is for a full month's rent.

The tenants were also provided a nominal award of $1.00 in recognition of the landlord's breach of the Act with respect to repairing and maintaining the property. The balance of the amount sought for a rent abatement was dismissed due to insufficient support for the amount claimed and lack of mitigation.

The tenants' claim for compensation payable under section 51 of the Act was dismissed entirely.

Monetary Orders have been provided to the eight tenants for the applicable amount as set out above.

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 30, 2016

Residential Tenancy Branch