



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDC OLC FF O

### **Introduction**

This hearing dealt with the tenant's application pursuant to section 67 of the *Residential Tenancy Act* (the *Act*) for:

- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover her filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

MM ('landlords') confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find the landlords duly served with copies of the tenant's Application and evidence. The tenant confirmed receipt of the landlords' evidence. In accordance with section 88 of the *Act*, I find that the tenant was duly served with copies of the landlord's evidence.

### **Issues(s) to be Decided**

Is the tenant entitled to a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to recover the filing fee for this application from the landlords?

## **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began in September of 2015. The tenant testified, during the hearing, that on October 29, 2016 she had noticed an abundance of flies in her rental unit. She had a friend over that day, whose letter she had included in her evidence package, stating “we must have killed close to 15 flies that night before I left”. The tenant had originally thought the flies were the result of the warm weather. Originally the flies were on the windows in her living room and kitchen, but she estimated that each day there would be approximately 30 more flies in her home. She testified that the flies would buzz around her head, and prevented her from being able to sleep.

On November 2, 2016, the tenant had contacted the landlords by text message, and the landlords replied that the upstairs tenant was also experiencing an issue with flies. The landlords suggested to the tenant to open her doors, and buy a can of “Raid” and a fly swatter. The tenant testified that the fly problem became so problematic that she had decided to stay at a friend’s home in order to sleep properly. The tenant included a letter, in her evidence package, from her friend confirming that the tenant had stayed at their residence November 2, 2016 through to November 7, 2016. Upon returning to the rental suite, the tenant noticed that there were fly feces everywhere, including on her stove, in the bathroom, and on her blinds. She had noticed by this time that the flies were moving a lot slower. The tenant submitted, in her evidence, photos that she took of her home with specks that she believed were “fly remains” on her bathroom wall, on her blinds, and on her bathroom electrical outlet. The tenant also submitted a photo of a dead fly in her refrigerator

On November 17, 2016 the tenant wrote a letter to the landlords requesting monetary compensation in the amount of \$270.00, equivalent to approximately nine days of rent, which is currently \$925.00 per month. The tenant also requested a professional cleaner to clean and disinfect her suite. The landlords responded on November 23, 2016, by issuing a Notice to Enter the Premise, which was posted on the tenant’s door. The tenant testified that no explanation was provided on the notice other than “perform inspection”, with an attached copy of “tenant’s obligations” highlighted by the landlords. The tenant submitted a copy of this notice as part of her evidence package, and the purpose provided by the landlords on the notice was “performing maintenance or

service inspection and/or work". The inspection was scheduled for November 25, 2016, on which date the landlords took photographs. The tenant testified that the landlords did not inform her that photographs would be taken. The tenant provided a letter from a friend who was present for the inspection, stating that "he took photos of the kitchen sink, the kitchen blinds, the computer desk, and the bookshelf with the tv on it and left".

The tenant sent a follow-up letter to the landlords on November 28, 2016, and received a reply in the form a text message on December 4, 2016 requesting an in-person meeting. The tenant had declined as she felt that the conversation would not be documented. The tenant testified that the flies are no longer in her rental unit, but that there are still fly feces on her blinds. She testified that the landlords did not offer her any assistance, although the landlords had provided her neighbour with a can of Raid and a fly swatter.

The landlords responded to the tenant's testimony in this hearing by disputing the fact that this issue requires any kind of compensation or professional cleaning. The landlords testified that these are just normal house flies, and that the tenant had decided, without permission from the landlords, to stay at her friend's house. The landlords testified that the neighbours had not requested any monetary compensation or professional cleaning, and that the tenant did not provide any receipts for the purpose of this hearing. The landlords testified that house flies were a normal part of everyday living, and that that they had fulfilled their obligations as landlords. The tenant responded that that she was displaced due to this situation, and that the landlords failed to follow up with her written requests other than the inspection.

The tenant is seeking monetary compensation in the amount of \$270.00, and professional cleaning.

### **Analysis**

Section 32(1) and (2) of the *Act* outlines the following obligations of the landlord and the tenant to repair and maintain a rental property:

**32** (1) *A landlord must provide and maintain 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.*

*(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....*

Section 65(1)(c) and (f) of the *Act* allow me to issue a monetary award to reduce past rent paid by a tenant to a landlord if I determine that there has been “a reduction in the value of a tenancy agreement.”

I have considered the testimony of both parties, and while the tenant had provided a very detailed summary and evidence package supporting her issue with the flies in her rental unit, the tenant did not provide sufficient evidence to establish that the landlords failed fulfill their obligations as required by section 32(1) of the *Act* as stated above.

I accept the landlords’ testimony that the tenant had decided to seek alternative housing on her own volition, and she did not obtain the permission from the landlords, nor did she file an application for dispute resolution regarding this matter.

The tenant did not provide any receipts for the costs that she incurred as part of this problem, nor had she provided sufficient reason why professional cleaning was necessary. I find there is insufficient evidence for me to make a finding that the landlords had failed to meet their obligations regarding this matter, and on this basis I am dismissing the tenant’s application for a monetary order.

### **Landlord's right to enter rental unit restricted**

**29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies...

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

(i) the purpose for entering, which must be reasonable;

(ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees...

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

I find that the landlords had complied with the section 29 of the *Act* by providing proper notice and a reason to enter the tenant's rental unit. I also find that the landlords had complied with the *Act* in their right to inspect the rental unit, especially after being notified by the tenant regarding an issue within it. Accordingly, I am dismissing the tenant's application for an order requiring the landlords to comply with the *Act*, regulation, or tenancy agreement.

As the filing fee is a discretionary award given to a successful party after a full hearing on its merits, I dismiss the tenants' application to recover the \$100.00 filing fee.

### **Conclusion**

I dismiss the tenant's entire application.

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: February 17, 2017

---

Residential Tenancy Branch