



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      RP, MNDC, O

### Introduction

This was the tenant's application filed April 13, 2017 under the *Residential Tenancy Act* (the "Act") for an order requiring the landlord to make repairs and for compensation for breach of the Act, regulation, or tenancy agreement.

The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony and documentary evidence and to make submissions.

As the landlords did not attend the hearing, service of the tenant's application, the notice of hearing, and the supporting documentary evidence was considered. The tenant provided affirmed testimony that these materials were sent to each of the landlords in two separate packages by registered mail on April 25, 2017. The tenant provided Canada Post registered mail receipts in support. The tenant testified that those packages were not picked up and were returned to the tenant.

The tenant also testified that the landlords had not included an address for service on the tenancy agreement. The tenancy agreement was in evidence and confirmed this testimony. The tenant advised that he had communicated with the landlords via text since the beginning of the tenancy and that they are sometimes but not always responsive. The tenant also advised that he was required to locate a mailing address for the landlord's by making inquiries with other government agencies.

Landlords are required by the Act to include their address for service on the tenancy agreement. In this case the landlords have failed to do so. However, I am satisfied that the mailing address that the tenant discovered through his own efforts and to which he sent his application and notice of hearing is the landlords' mailing address and that the materials were simply not picked up. Rent is sent to this address and the landlords appear to be receiving that rent. Additionally, and as set out in more detail below, there is also evidence that the landlords have received correspondence at this address. Documents sent by registered mail are deemed served five days after mailing pursuant to s. 90 of the Act. I therefore find that the landlords were served with the tenant's application, notice of hearing and evidence on April 30, 2017. Refusal or neglect to accept the registered mail packages does not constitute grounds for an application for review consideration under the Act.

The tenant filed an amendment to his application on April 25, 2017. At the outset of the hearing the tenant confirmed that the amendment did not actually change or modify his claim but only added descriptions to photographs that had been submitted with his original evidence.

#### Issue(s) to be Decided

Is the tenant entitled to a repair order?

Is the tenant entitled to monetary compensation?

#### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on May 1, 2015. Monthly rent of \$650.00 is due on the first day of each month. The tenant paid a security deposit of \$325.00 at the start of the tenancy which the landlord continues to hold. As set out above, there is no address for the landlords on the tenancy agreement.

The tenant testified that there have been rats and insects in the rental unit since the tenancy began. He first raised his concerns about rats with the landlord by text in or about March of 2016. The landlord responded by text acknowledging that others had also reported the rat issue and that he was trying to deal with it.

Months later, some substandard repairs were made, apparently by the landlords, and apparently to address the rat issue. The landlord covered one or more holes in the building wire mesh. However, that mesh was soon after gnawed through. A photo of the gnawed screen was in evidence. The landlord also had "bait boxes" placed around the building. However, the tenant has since been advised by the pest control company who subsequently investigated at the tenant's request that the bait boxes are not being filled frequently enough.

The tenant further testified that he can hear the rats in the walls in his bedroom, in the ceiling, and in the false wall in the kitchen. He submitted a photograph of a large hole underneath his kitchen sink where he believes rats enter and exit. He stated that he raised this with the landlord and was advised he could repair it himself if he wished. The hole is large and is through wood and the tenant is of the view it requires professional repair.

The tenant also testified that he and his young daughter have suffered insect bites since the beginning of the tenancy. The tenant did not raise his concerns with insects with the landlord in March of 2016 because he did not realize until later that it was likely the rats that were carrying insects into the rental unit and he was attempting to deal with the insects himself. He submitted several photos of bites on both of them, including one particularly graphic photograph of his daughter's back with many swollen and irritated looking bites. The tenant's photos were taken in or around March of this year, but he says that he and his daughter have been suffering with

similar bites since the beginning of the tenancy and could have submitted many other photographs.

The tenant also stated that his daughter was being bitten more badly than he, so he relocated her bed and moved his bed into the room where hers had been located. There is a hole in this room where the water pipe continues through and the tenant believes that insects living on the rats may enter the bedroom through this hole. After moving his bed into this room the tenant was more badly bitten. He has also woken up recently covered in small ants, and believes there is an ant hill close-by.

The tenant described some of the efforts he has made to address the insects and the rats. He stated that he has been laundering the bedding and other things every week to try to address the insect issue, and that this is costly. He has used different chemicals and has also tried home remedies including spreading basil around the bed. He has set up ant traps.

The tenant has also set his own rat traps. He provided several photographs taken in or around March of various trapped (killed) rats. One of the photographs is of a dead rat immediately outside one of the holes that the tenant suspects allows rodents into and out of the building.

The tenant included two letters to the landlords in evidence. Both ask the landlords for emergency repairs to address the rat and the insect issues. One, dated March 20, 2017 is signed by all or most of the tenants in the six-unit building. It sets out information received from the pest control company and other sources about the connection between rats and the rodent mites that they carry. This was sent by courier to the landlords' mailing address and tracking information also in evidence establishes that it was received.

Another is dated March 28, 2017 and is signed by the tenant. It also asks the landlord to address concerns with a new (used) fridge provided by the landlord, which the tenant says is missing a drip tray and a fridge cover, with the result that there are wires exposed at the very bottom of the unit and the tenant is required to use an oversized cookie tray in place of the drip tray. The tenant is concerned for his young daughter's safety in the event she reaches under the fridge. The letter also recounts that this was raised with the landlord by text in early February, 2017. The tenant provided photographs of the fridge in the letter to the landlord and in his hearing package. The tenant's March 28 letter was sent by Canada Post's registered mail and tracking information also in evidence suggests it was returned to sender.

In early April the tenant had a pest control company inspect the property. He was advised that rats carry fleas and mites and that when they die inside of the walls of a building the fleas and/or mites will leave them and locate another host. The company recommended that all the holes in the building be sealed, and that the bait boxes be filled monthly rather than quarterly. The tenant understands that the landlord has already received similar recommendations from the same pest control company.

The tenant has seen his doctor about the bites and been advised they are likely fleas. He has been prescribed a topical cream for the itching but it does not help much.

The tenant claims \$80.00 per month for loss of enjoyment of the tenancy based on the rat and insect infestation beginning from the start of the tenancy in May of 2015.

### Analysis

Section 32 of the Act requires a landlord to provide, maintain, and repair residential property such that it complies with health, safety, and housing standards required by law and makes it suitable for occupation by a tenant. Based on the undisputed documentary evidence and the undisputed oral testimony provided during the hearing, and on the balance of probabilities, I find that the landlords have not met these obligations under the Act. Specifically, I find that the landlords failed to properly remediate the rat problem after the tenant advised them his concerns in March of 2016.

I further find that the insects and the bites suffered by the tenant and his daughter are the result of the presence of rats in the building, and that the tenant and his daughter have suffered a loss of enjoyment of the rental unit as a result of the insects and the rats in the unit. As a result I accept the tenant's claim for loss of enjoyment of the rental unit in the amount of \$80.00 per month. However, as the tenant did not raise his concerns about the rats until March of 2016, I award this amount only from March, 2016 to present.

I order the landlords to treat the rat and insect infestations in the terms set out below.

I further find that the landlords have breached s. 32 of the Act by providing the tenant with a used refrigerator without a cover and without a drip tray, and I order the landlords to replace or repair the refrigerator on the terms set out below.

### Conclusion

I order the landlords to arrange for a certified pest control company to inspect the tenant's rental unit and to provide the landlord with a written report and list of recommendations for dealing with all pests (insects and rats) no later than June 10, 2017.

I further order the landlords to immediately share the pest control company's written report with the tenant and to comply with all recommendations of the pest control company no later than June 17, 2017.

I award the tenant \$80.00 per month for loss of quiet enjoyment of the rental unit from March, 2016 (when he first reported the rat issue to the landlords) through May 2017, inclusive, for a total of **\$1,120.00** (14 months x \$80.00). The tenant may withhold all of one month's rent and a portion of another month's rent in full satisfaction of this award.

I further order the landlords to repair or replace the tenant's fridge no later than June 10, 2017.

This monthly rent reduction remains in effect until both parties agree in writing that the work is complete or, if they cannot agree, then until the landlord obtains an order from a Residential Tenancy Branch arbitrator that all of the recommendations of the pest control company have been complied with and that the rent reduction should end.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1 of the Act and is final and binding pursuant to s. 77 unless otherwise indicated in the Act.

Dated: May 29, 2017

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Residential Tenancy Branch