



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RP, MND

### Introduction

The tenants apply for a repair order and for damages claiming the landlord has failed to eradicate a vermin problem in the rental premises in a timely manner.

This application is unusual because Ms. A.A. and Ms. A.B. are the tenants of the upper, three bedroom, portion of this house, while the tenants Ms. G.M. and Ms. N.C. are tenants under a different tenancy agreement for the two bedroom lower portion of the home.

By the date of this hearing all the tenants had or were in the immediate process of moving out and so the claim for a repair order will not be dealt with.

The listed parties attended the hearing on both days and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Mr. N.S. appears to have been the sole contact between the tenants and the landlords and so all references to “the landlord” in this decision are references to him unless indicated otherwise.

### Issue(s) to be Decided

Has the landlord failed to repair and maintain the rental unit(s) 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, as required by s. 32 of the *Residential Tenancy Act* (the “Act”)?

### Background and Evidence

Ms. A.A. and Ms. A.B. rented the upper unit starting July 1, 2017 for a one year term at a monthly rent of \$2800.00. They paid the landlord a \$1400.00 security deposit.

Ms. G.M. and Ms. N.C. started their tenancy in the lower unit in mid July 2017 for a one year fixed term at a monthly rent of \$1700.00. They paid the landlord an \$850.00 security deposit.

Ms. N.C. testifies that the tenants suffered a mice infestation that started in January and continued to the June 14 hearing. She says the landlord failed to respond quickly and when he did only took sporadic action.

She says the mice were in the garage (where the tenants were entitled to store belongings) kitchen and bedrooms. There were rats in the garage.

Ms. N.C. referred to about twenty five photographs of the interior of the upper and lower units, many showing significant numbers of rodent feces pellets under a sink, on a couch, on the floor, on storage containers, on a window sill and in the bathroom towel closet. She says there are still droppings being found as of the June 14 hearing.

She also presents a video clip of an area of wall behind a kitchen appliance. The foot of the wall has been sealed with foam. The video taken in April, with sound, is said to capture the sound of a mouse or rat attempting to claw or chew its way through the foam to enter the room.

On January 9 the upper tenants notified the landlord of a rodent problem. On January 17, the lower tenants did as well.

The landlord acted promptly and retained a professional exterminator. Either the exterminator or the landlord Mr. N.S. "sealed off" the shared garage and points of entry behind the fridge and couches in either one or both of the rental units. The bedrooms were not checked for points of entry. The landlord counselled Ms. N.C. to put a towel under the door to the laundry/furnace area.

By January 25 Ms. G.M. reported to the landlord the noise of vermin in the walls was keeping her awake at night. On February 6 she reported that there was lots of noise in the walls.

The exterminator attended again on February 9 and set more traps and bait but didn't fill holes.

On March 3, the landlord attended and installed some baseboards along some of the walls. This was done at the tenants' request based on something the exterminator had told them.

On March 10, Ms. G.M. reported to the landlord that they keep cleaning their rental unit but there are still droppings everywhere and asked the landlord to come back and block the holes providing points of entry. She testified that she and Ms. N.C. had been spending nights away in order to avoid the problem. By this time no more rats were being caught in the garage and the problem was considered to be restricted to mice.

On or about March 19, the landlord installed door sweeps to prevent rodents from getting under doors.

On March 18 Ms. G.M. again reported to the landlord that they cannot sleep due to the noise in the walls.

On March 19 all four tenants sign a note to the landlord that they were unhappy about the resolution of the vermin problem. The note indicates they notified the landlord in December, but the testimony reveals that though they might have started finding rodent feces in December, they did not formally notify the landlord until January.

The March 19 note states they were still finding "abundant" feces in the house and rat feces in the garage. There were still loud noises at night and there were many holes in the walls that had not been sealed. Though the landlord's exterminator came, things were not significantly better and the exterminator was not returning calls from the tenants. The note says the tenants would be applying for dispute resolution.

It appears the landlord hired a new exterminator the very next day. The new exterminator contacted the tenants and wrote that he would do a "360 degree inspection" of the house, sealing all outside points of entry. He would seal only some of the interior points of entry, in order to allow the rodents to move around normally and be caught or poisoned.

The tenant Ms. A.A. testified confirming Ms. N.C.'s evidence. She describes the stress imposed on her by the rodent problem. As well, she has a dog and was worried about it being poisoned by the rodent bait.

The tenant Ms. G.M. testified as well, confirming Ms. N.C.'s evidence. She had found droppings on her bed. For the last few months she has been staying at a partner's apartment.

The tenant Ms. A.B. testified. She was the initial contact between the tenants and the landlord. She states she was very distressed by the rodent problem and was up at night. She was concerned about hygiene. Despite constant cleaning there would be new droppings every day. She doesn't think the landlord acted promptly to fill holes and did not use a special filler. There were "mountains" of feces behind the stove and the landlord did not act.

The landlord testified that the first exterminator said to seal the exterior, especially the garage door. He says that on January 24 he spray foamed along the edges of garage door and completely sealed the whole perimeter around the house. He installed baseboards in the top floor on March 3.

He and his father have owned this house since the spring of 2017 and it had been empty for a few months. They renovated the downstairs from a bare downstairs and installed new carpets upstairs.

He hired the new exterminator in March at the request of the tenants. On April 3 the new exterminator reported that there was "high activity" in the upstairs site, holes under a bathroom and kitchen were sealed, walls were baited with poison and that a hole under a bathroom sink must have a cover.

All of the tenants have now vacated but the landlord is still trying to eradicate mice from the house with the help of the new exterminator.

### Analysis

There are no significant credibility issues. All four tenants and the landlord gave their evidence in a consistent and straightforward manner.

The landlord did not cause the rodent infestation, nor did he have reason to believe that the house was particularly susceptible. There is no record of prior problems and, indeed, the landlord was a new owner. His duty was to address and repair the problem in a reasonable manner within a reasonable time. If a landlord does so then he has complied with his obligation and is not responsible for loss or damage his tenant's might have incurred.

It is apparent that the landlord unwittingly purchased a house that was susceptible to vermin. Once it became tenanted and food and water became available the home was infested. It is apparent from the tenants' evidence that they suffered an extreme infestation, particularly in the walls of the home, where the mice would scamper at night; a particularly disturbing sound..

The landlord acted quickly in attending to the problem. He hired the first exterminator almost immediately and that exterminator attended at the house quickly. However, in my view that exterminator did not attend to the problems at hand with sufficient dispatch. The extent and duration of the infestation satisfies me that neither the first exterminator nor the landlord thoroughly sealed access points for rats and mice into the house from the outside. I conclude that mice continued to enter the house by that means.

No expert evidence was tendered to show how long it should normally take to conquer the problem the parties experienced. Nevertheless, I find that the reasonable time to do so was extended by a period of two months because of the failure to properly close off points of entry from outside the house. The landlord is responsible for the failings of his workmen and so is responsible for the trouble and inconvenience suffered by the tenants for those two months.

The four tenants have brought this application together but have not provided much detail about how each of them was inconvenienced or disturbed by the problem. In my view this is not a bar to recover and a global award would be appropriate.

Having regard to the circumstances shown by the evidence I consider the tenants were put to significant bother having to clean the rental units of mice droppings almost every day over this two month period. They were significantly bothered by the sound of mice in the walls at night to the point where at least two of them slept elsewhere. They were required to put all their foodstuffs in plastic containers for protection from mice.

I consider the amenity of the house to have been reduced by a third. The total monthly rent for the two rental units was \$4500.00. A third is \$1500.00. I award the tenants \$3000.00 for the loss, inconvenience and disturbance which they needlessly suffered for a two month period.

### Conclusion

The tenants will have a monetary award, jointly, against the landlords in the amount of \$3000.00. There is no claim for recovery of a filing fee.

It will be left to the tenants to determine how that award should be divided between them.

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: June 30, 2018

---

Residential Tenancy Branch