



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OLC, MNSD, MND

### Introduction

The tenants apply to cancel a ten day Notice to End Tenancy for unpaid rent dated May 2, 2018. They also seek an order that the landlord comply with the law or the tenancy agreement, a rent reduction and for damages for the landlord's failure to comply.

At hearing it was determined that the tenants have secured new accommodation effective July 15, 2018. The parties agreed that this tenancy will end by mutual agreement on July 15, 2018 and that the landlord will have an order of possession for then.

As the tenancy is ending, the tenants' request for a compliance order regarding the keys to the rental unit and the upstairs neighbour are no longer in issue, as any compliance order would be of no benefit since the tenancy is ending shortly.

The sole issues remaining are whether or not the landlord has failed in his duty to maintain the premises as he is required to do under s.32 of the *Residential Tenancy Act* (the "Act") and if not, then what damage or loss have the tenants' suffered as a result.

All three parties attended the hearing 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.

### Issue(s) to be Decided

Has the landlord failed to maintain or repair the premises at a level making them in compliance with health and safety standards and suitable for occupation by a tenant? If so what damage or loss have the tenants suffered?

### Background and Evidence

The rental unit is a converted hotel suite containing a bedroom, bathroom and kitchen facilities.

The tenants moved into the unit in the summer of 2017, having been forced out of their previous accommodation by wildfires in the area. The rent was originally \$1100.00 per month. That rent was reduced at the tenants' request in January 2018 to \$950.00, likely due to the fact that Mr. C. was working out of town a lot and only Ms. C was occupying the rental unit.

The tenants say they paid a security deposit. The landlord says they didn't. Neither assertion was corroborated in the normal way: by production of a written tenancy agreement.

Mr. C. testifies that the landlord told them their rental unit was in the "working corner" of the complex; a place where working people stayed and which was therefore quieter. He says it was not and that the tenant above them was the source of considerable noise at all hours and was smoking crystal methamphetamine, a particularly foul smelling substance.

Mr. C. says he stayed at another motel just to get some rest but the landlord would not reimburse him.

He says that as the winter approached it was discovered that there were mice in the rental unit. He says he later discovered rats. The landlord was informed but did nothing.

In December he discovered bedbugs in the rental unit. He informed the landlord and an exterminator arrived who advised the tenants to bag their personal belongings for a week and who sprayed the unit for bugs.

Mr. C. says that the exterminator was supposed to return to respray. The return date was not convenient for Mr. C. as neither tenant would be home. He requested a different time or date but none was ever arranged. No second spray was ever done and

Mr. C. says it's the exterminator and landlord's fault because they didn't complete the rescheduling process with him.

Meanwhile, mice had gotten into the bags the tenants used to bag all their personal items.

Mr. C. says the tenants had to get rid of one of their couches because the exterminator said it was too infested with bed bugs to be saved. He says there are still some bed bugs in the rental unit.

He admits the tenants have held back two months rent to force the landlord to attend to the problems around the rental unit.

Ms. H.C. testifies the landlord said he would reduce the rent because of all the dog food the tenants lost as a result of contamination by mouse feces but rent was not reduced.

She is concerned that the previous tenant in the rental unit retained a key and has been entering and taking things.

She feels the rent should only be \$700.00 because that is what Facebook shows the landlord is charging for "singles."

The landlord testifies that the tenants were good tenants and that he reduced the rent as much as he could.

He denies having been notified of mice or rat problems in the rental unit and says if he had he would have attended to any problem.

He says that upon being informed of bed bugs he hired a professional exterminator to attend to the problem. He knows that the exterminator did not return to this particular suite for a respraying because the exterminator could not reach the tenants to arrange a convenient date. He says the exterminator conducted an inspection and confirmed this rental unit was bed bug free.

### Analysis

In order to succeed on an application of this nature, a tenant must first show that the landlord has failed to attend to his legal obligations in a reasonably timely fashion. In

regard to pest problems in a rental unit that means the landlord must know or be informed of the problem.

In this case it is agreed the landlord was informed of the bed bug problem and, from all appearances, immediately contacted a professional outfit to attend to it. That was a reasonable and proper response.

At that point the tenants had suffered the inevitable loss of their infested couch, which could not be saved. The landlord is not liable for that loss. He did not introduce the bed bugs.

The landlord is responsible to see that the exterminator attends to the work in a reasonably timely manner. In this case I find that the exterminator did so but that the anticipated second spraying did not occur as scheduled because of the request of the tenants. It cannot be reasonably determined on this evidence why the second spraying, if it was necessary, did not occur. In these circumstances it is not reasonable to conclude it was because of something the landlord or the exterminator did or did not do that either of them should have done.

As a result, the tenants have not shown on a balance of probabilities that the landlord fell short of his obligation to repair and maintain the premises and their claim regarding bed bugs must fail.

Similarly, while the tenants say they told the landlord about the mice and rat problem, the landlord says they did not raise it with him. There is not corroborating evidence either way; for example a note or text informing the landlord of the problem.

Considering that the landlord attended to the reported bed bug problem in a timely and proper fashion, I consider it likely that he would have done the same had a vermin problem been brought to his attention. In result I find that the landlord has not been warned of the vermin problem and his obligation under s. 32 of the *Act*, did not arise until he was informed. For this reason the tenants' claim regarding vermin; mice and rats, must fail.

The tenants' application also refers to a lack of water and orange or bad water. They have provided a video clip showing that brown water runs out of a (bathtub?) tap when it is turned on.

There was little testimony about the water problem. Without more evidence it cannot be determined that it is more than a rusty pipe that discharges discoloured water for a moment when the tap is turned on. There is no evidence that such a momentary inconvenience is harmful to the tenants. For this reason this item of the claim must also be dismissed.

### Conclusion

The parties have a mutual agreement to end this tenancy July 15, 2018 and the landlord will have an order of possession for then.

The remainder of the tenants' claim is dismissed.

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: July 04, 2018

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Residential Tenancy Branch