



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TOWN PARK APARTMENTS  
LTD and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      **MNDCT OLC RP**

### Introduction

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

1. A monetary order for damages or compensation pursuant to section 67;
2. An order for the landlord to comply with the *Act*, Regulations and/or tenancy agreement pursuant to section 62; and
3. An order for regular repairs to be done to the rental unit pursuant to section 32.

The tenant did not attend the hearing, however the tenant's advocate, TK did ("tenant"). The landlord attended the hearing represented by property manager, CL ("landlord"). The landlord confirmed receipt of the tenant's Application for Dispute Resolution Proceedings Package. Although he indicated the tenant did not provide him with codes to upload evidence to the Residential Tenancy Branch within the prescribed timelines, the parties agree that the landlord's documents were exchanged before the hearing and both parties were prepared to deal with the matters of the application.

### Preliminary Issue

In the tenant's evidence package, the tenant provided a letter from the advocate dated September 27, 2019 indicating that as of September 19<sup>th</sup>, the tenant has not heard or seen any rodents in her unit but has damages to her personal belonging. In light of this, the tenant agreed that parts 2 and 3 of the application were not longer required as the landlord has complied with the *Act* and done repairs by eradicating the rodents.

### Settlement Reached

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issue of the landlord providing 24 hours notice of entry

to the tenant before entering. The parties turned their minds to compromise and achieved a resolution of this aspect of the dispute.

In accordance with section 29 of the *Act*, the landlord will give the tenant written notice to enter the tenant's rental unit at least 24 hours and not more than 30 days before the entry. The notice will include:

- (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.

Both parties testified that they understood and agreed to the above term, free of any duress or coercion. Both parties testified that they understood and agreed that the above term is legal, final, binding and enforceable, which settle this aspect of this dispute.

#### Issue(s) to be Decided

Is the tenant entitled to monetary compensation pursuant to section 67 of the *Act*?

#### Background and Evidence

The landlord provided the following testimony. The tenant was already occupying the rental unit when his company took over. A new tenancy agreement was signed between the parties on October 1, 2017. A security deposit of \$225.00 is currently being held by the landlord. Rent of \$450.00 is paid on the first day of each month.

The tenant's advocate gave the following submission. In August, the tenant notified him of an issue with rodents in her unit. The rodents were disturbing her sleep and causing health issues for her including leaving feces in the tenant's bed. Photos of the tenant's mattress were provided as evidence. The tenant tried to fix the issue herself by purchasing and placing rodent traps around the unit however they were unsuccessful. The tenant also placed steel wool around areas she thought the rodents were coming into her unit as she believed steel wool would prevent further infestation coming from outside her unit.

The tenant's advocate submitted the tenant has not been able to purchase a new mattress to replace her old one that was damaged due to the rodent feces and bedbugs she also alleges were in the unit. Groceries spoiled by the rodents and insects were estimated to be approximately \$200.00. No invoices for traps or groceries were

presented as evidence and the tenant's advocate was unable to testify as to whether the tenant purchased these items.

The tenant claims for cultural regalia and clothing damaged due to the rodents. No photographs of the loss were provided as evidence. The tenant's advocate estimated it would cost the equivalent of \$1,000.00 to purchase the materials required to reproduce the cultural regalia.

The tenant signed a letter on her advocate's letterhead dated July 17<sup>th</sup> and another letter on August 8<sup>th</sup> asking the landlord to address the rodents in her unit. Copies of the letters were provided as evidence by the tenant. On August 19<sup>th</sup>, the tenant filed an application for dispute resolution.

The landlord acknowledges there was an issue with rodents in the building. He testified that when the caretaker was made aware of the issue in June during an inspection, the caretaker noted the tenant's unit was in an unhygienic condition with spoiled food and unsanitary garbage strewn about. The landlord purchased rodent traps and rodent repellent in June while he awaited an extermination company to come and take care of the rodents. Because the community where the rental unit is located is remote, the visits from the extermination company takes place every 3 weeks to 1 month.

The building was treated for rodents on August 5, 2019 and the landlord was advised by the exterminator that unless the tenant cleaned up her unit, the rodents were likely to come back. The landlord provided an invoice from the exterminator indicating the tenant's unit was treated for both rodent control and bedbugs on August 24<sup>th</sup>. Neither the caretaker or the exterminator were called as witnesses.

### Analysis

Section 7 of the *Act* states:

1. If a landlord or tenant does not comply with this *Act*, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
2. A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Rule 6.6 of the Residential Tenancy Rules of Procedure indicate the onus to prove their case is on the person making the claim. The standard of proof is on a balance of

probabilities. If the applicant is successful in proving it is more likely than not the facts occurred as claimed, the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; and
4. Steps taken, if any, to mitigate the damage or loss.

First, has the tenant has provided any evidence to show the existence of monetary loss? With the exception of photos of the chewed mattress with rodent feces, no evidence of losses was provided. There are no invoices for mouse traps, glue traps, or replacement clothing provided. The tenant also provided no photographic evidence of owning any of the cultural regalia she seeks compensation for. No evidence was provided as to the age and condition of the tenant's mattress or whether it required replacement before the rodent infestation.

Second, the tenant must show the landlord failed to address the rodent issues in accordance with section 32 of the *Act*. The tenant provided multiple photographs of droppings to prove there was a rodent infestation in the rental unit and the landlord acknowledges the building did have such an issue. Despite this, the tenant has not provided sufficient evidence to show the landlord has failed to address it. The first written notice from the tenant is dated July 17<sup>th</sup> and the landlord took the steps to eliminate the rodents by August 5<sup>th</sup>. I accept the landlord's evidence that it takes time to book an exterminator in the small community where the rental unit is located. The landlord had the tenant's rental unit treated for both rodents and bedbugs within a reasonable amount of time, by August 24<sup>th</sup>. Likewise, the tenant's letter dated September 27<sup>th</sup> states the rodents are gone. While I am satisfied there was a problem with rodents, I am also satisfied the landlord actively took the steps necessary to keep the property in a state of repair that complies with the health, safety and housing standards required by law in accordance with section 32.

Third, I have not been provided with sufficient evidence to show the value of the items the tenant is claiming. The tenant's advocate acknowledged the tenant estimated the loss of mattress, food and clothing as well as the monetary value of the cultural regalia. No proof of purchase or documents to determine the value of the items was provided.

Lastly, the tenant has not shown she did whatever she could to mitigate the damages. Section 32(2) of the *Act* requires the tenant to maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant has not provided sufficient evidence to show she has not directly contributed to the rodent issue by failing to keep her rental unit reasonably clean and sanitary.

I find the evidence insufficient to support the tenant's claim for compensation pursuant to sections 7 and 67 of the *Act*. The tenant's claim is therefore dismissed.

#### Conclusion

As agreed by the parties, in accordance with section 29 of the *Act*, the landlord will give the tenant written notice to enter the tenant's rental unit at least 24 hours and not more than 30 days before the entry. The notice will include:

- (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.

The remainder of the tenant's claim is dismissed without leave to reapply.

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: October 20, 2019

---

Residential Tenancy Branch