



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CO.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenants served the landlord with the notice of hearing package and the submitted documentary evidence via email on April 1, 2020. Both parties also confirmed that they received the submitted documentary evidence provided by the other party. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served.

The hearing was adjourned due to a lack of time.

On June 8, 2020 the hearing resumed with both parties.

### Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 1 month notice?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on December 1, 2013 on a fixed term tenancy of 6 months and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated September 29, 2013. The monthly rent began at \$1,100.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$550.00 and a pet damage deposit of \$200.00 were paid.

Both parties confirmed that on March 20, 2020, the landlord served the tenant with the 1 Month Notice dated March 20, 2020 in person. The 1 Month Notice sets out an effective end of tenancy date of April 30, 2020 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk.

The details of cause provided are:

*Tenant is highly infested with bedbugs. Tenant was not prepared for treatment on March 16, 2020. In the past, the tenant had several times bedbug activity in the suite. Tenant promised to cooperate and keep the suite neat and cleaned. The resident manager asked the tenant to inform the office of any bedbug activity in their suite, right away. Lack of co-operation putting whole apartment complex at significant risk of bedbug infestation and seriously jeopardizing health and safety of another occupants.*

The landlord claims that the tenants have been repeatedly uncooperative in the bedbug treatments for the rental unit. The landlord stated as a result the tenant has seriously jeopardized the health or safety of the rental property and put the landlord's property at significant risk. The landlord submitted 22 photographs as evidence of bedbug infestation in the rental unit.

The landlord stated that this is the third time over a 4 year period where bedbugs were found in the tenants' rental unit. The landlord claims that the tenant is well aware of the requirements to prepare for the bedbug treatments. On each occasion the same instruction preparation sheet was provided with detailed instructions. In this case the tenant initially failed to report any bedbug activity in the rental unit. The landlord stated

that this is 3 story, 100 unit rental building. An inspection took place in the vicinity of the report for 4 units. An inspection revealed that no bedbug activity in units 331, 333 and 335. Unit 334 was found to have bedbugs during an inspection. The landlord has submitted photographs of the 3 bedroom unit. The landlord stated that the inspections were performed by 3 inhouse certified pest control technicians.

The landlord stated that a notice of inspection was given to the tenant on March 7, 2020 for a bedbug inspection on March 9, 2020. On March 9, 2020 a bedbug inspection took place and bedbugs were found in the rental unit. On that same date the surrounding units were also inspected and no bedbugs were found. On March 13, 2020 a notice was given to the tenant for bedbug treatment for March 16, 2020.

The unit was found barely adequate for bedbug spray treatment, but the treatment was done despite this.

On March 17, 2020 a notice was given to the tenant titled, "Final Warning, Bedbugs activity in your suite". In this notice the tenant was cautioned that "Full co-operation is required and failure to comply will result in 30 day notice to terminate your lease."

On March 27, 2020 a notice was given to the tenant for bedbug follow-up treatment for March 30, 2020. On March 30, 2020 bedbug treatment continued and bedbugs and eggs were found and removed from beds were removed. Follow up treatment was recommended and better preparation was requested of the tenants.

On April 15, 2020 a follow up bedbug treatment was done and that it was advised that the tenant dispose of two sofa beds as they were infested with bedbugs.

The landlord argued that the tenants disregard to properly prepare the units for treatment has caused the tenants to put the rental building at risk. The landlord argued that the tenants continue to bring in items of garbage and store them in the rental unit.

The tenant has argued that they have cooperated with the landlord regarding inspections and the pest management program and have been pest free for 2 years. The tenant confirmed that the recent March 2020 inspection found evidence of bedbugs. The tenant argued that the landlord did not give them time to respond. The tenant stated that on March 16, 2020 the tenant was home sick and tried to have the treatment postponed. The tenant stated instead they were served with a 1 month notice.

The tenants provided testimony that they have followed all of the instructions provided by the landlord and for some items they were not able to. The tenants stated that they continue to organize and clean the unit.

### Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, I accept the undisputed affirmed evidence of both parties that the landlord served the tenants with the 1 month notice dated March 20, 2020. Both parties confirmed all of the details as noted on the notice dated March 20, 2020.

The landlord has claimed that the tenants have been repeatedly placing the rental building at risk. The landlord provided undisputed affirmed testimony that the tenants have had 3 incidents of bedbugs over the last 4 years. No bedbugs have been detected in the area around the tenants' rental unit. The landlords have claimed that the tenants have failed to act responsibly by following the preparation instructions for bed bug treatment. The tenants have argued that they have complied with the landlord's instructions. Both parties confirmed that the landlord's written instructions calls for all items to be placed in sealed bags. The landlord has provided 22 photographs of which the landlord has referred to photographs # 7, 10, 11, 12, 14 and 15. The landlord claims that these examples of the tenants failing to comply with the instructions.

I accept the submitted evidence of both parties and find that the landlord has provided sufficient evidence for the reasons for cause. Although the tenants have disputed the landlord's claims that they have complied with the written instructions of the landlord the landlord has provided 22 photographs showing the tenants' non-compliance. An example of such is that all items are to be placed in a sealed bag. The submitted photographs clearly show that many of the tenants' items not in sealed bags. I find that this could result in an ineffective bed bug treatment and pose a significant risk to the landlord's property for the bed bugs to spread. On this basis, the tenants' application to cancel the 1 month notice is dismissed without leave to reapply. The 1 month notice dated March 20, 2020 is upheld.

The landlord is granted an order of possession to be effective 2 days after service as the effective end of tenancy date has now passed.

Conclusion

The tenants' application is dismissed without leave to reapply.  
The landlord is granted an order of possession.

The tenants must be served with the order of possession. Should the tenants fail to comply with this order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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 8, 2020

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Residential Tenancy Branch