



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CACADIA APARTMENT RENTALS  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, MNDCL-S, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order of \$650.00 for damages; for an order for monetary loss or other money owed, retaining the security deposit for these claims; and to recover their \$100.00 Application filing fee (I note that the Landlord applied for two claims regarding recovery of the filing fee).

The Tenant, T.S., and an agent for the Landlord, M.V. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that he served the Tenants with the Notices of Hearing documents and evidence by Canada Post registered mail, sent on March 30, 2022, and with further evidence being served by registered mail on October 18, 2022. The Landlord provided Canada Post tracking numbers as evidence of service. The Tenant said that they received the Notices of Hearing documents in the Spring, but they did not receive the additional evidence sent in the fall. I checked the Canada Post website for tracking information, and they said indicated that Canada Post left two notice cards for the deliveries, but that the packages were never picked up. The packages were returned to the sender.

The Tenant said that the rental unit has not been set up to the door buzzer, so there is no way they can know that someone is there to deliver a package. However, I find it consistent with common sense and ordinary human experience to know that Canada Post leaves notice cards to advise that a package is available for pick up at a nearby post office, if there is no one available to receive the package when first delivered. Further, if the Tenants were able to pick up the first registered mail packages in the Spring, it does not make sense that they would be unable to obtain those packages served in the fall of 2022.

In addition, RTB Policy Guideline 12 states that, "Where the Registered Mail is refused or deliberately not picked up, receipt continues to be deemed to have occurred on the fifth day after mailing." Accordingly, I find the Landlord served the Tenants with the Notice of Hearing documents and evidentiary submissions pursuant to the Act. The Tenant confirmed that he had not submitted any evidence to the RTB or served any to the Landlord for this proceeding.

I, therefore, admitted the Application and the Landlord's evidentiary documents, and I continued to hear from both Parties in the hearing.

#### Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application, and the Parties confirmed these in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

#### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

#### Background and Evidence

The Parties agreed that the fixed-term tenancy began on September 2, 2018, ran to August 31, 2019, and then operated on a periodic basis. They agreed that the tenancy

agreement requires the Tenants to pay the Landlord a monthly rent of \$1,200.00, due on the first day of each month. The Parties agreed that the Tenants paid the Landlord a security deposit of \$600.00, and no pet damage deposit.

I asked the Agent why the Landlord is claiming \$650.00 from the Tenants, and she explained as follows:

It's about treatment for bed bugs in their unit in 2022 and the service, because the Tenants complained. We never had the problem in this building, no other tenants complained. They said give us the service, which was done in the unit, and it's the responsibility for tenants to pay, because everything was fine.

The bugs came from somewhere, if after a couple days after they moved in, it is our responsibility. But when they live there for two years and it came from somewhere and on one else complains - it can be a delivery package to the unit - I don't know, but we had to make the treatment because it can be in all area of buildings. That's why we claim the payment.

The Tenant replied:

There's obviously some dishonesty that seems wilful. I have witnesses on the first floor multiple issues with bed bugs. We noticed the adjacent neighbours had the same exterminator there for the same issues. My wife used to work with a neighbour who also had their issue, and she was in the unit across the hall from us at about the same time, so why this Landlord is saying we are the only ones who had this issue?

The Agent said:

We never received complaints – we're just talking about this building this year. If people talk to each other, we can't know about this. Every year, a manager make an inspection in all units, if tenants attend, they can explain everything. Even in May 2022 - I didn't see something about bed bugs in the unit.

The Tenant responded:

It was the exact same exterminator at our neighbour's unit the same week. So it's hard to believe they heard nothing about it. They talked to us about having a bed bug issue.

I would also like to note, yes, we do have an inspection, but the Landlord does not check for bedbugs - they are pretty reclusive pests. Walking through on short notice, you're not going to notice – you can't make these claims either.

The Agent said:

No comments. I know about this situation. I don't know about it from different tenants. We have inspections every year, not everything in every unit, but they can ask.

Just to let you know, we tried to keep the place safe, even if something happened from outside, we think about all tenants, not just this unit, and we make this service for people in this unit and neighbours all around. But we just need a response to order the service. And I'd understand if they just moved in and everything. If it's something from a previous tenant; but this happened after two years and the company paid, but they can't pay for all treatments if it's not our responsibility. We tried the best for them and all other neighbours too.

The Tenant said:

The thing about bed bugs is they're very elusive. They crawl through walls, survive for long times without hosts. I could be believing I could be at fault, if it was just when we moved in. We stay home mostly and don't attend places where we could bring bedbugs in ourselves. We have had mice and I've taken steps to get rid of them. So, I work long hours in a food packaging plant, I did not prepare as much as I would have liked, but I don't believe the Landlord has shown the onus of proof. And I believe we'll be okay to continue.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

The Agent suggested that a new tenant who discovers bed bugs is not at fault, but that a long-term tenant is at fault, if there are suddenly bed bugs in the rental unit. I find this misses the point that a new tenant could have brought the bugs with them; whereas a long term tenant has less opportunity to introduce the pests on their own.

Essentially, I find that the Agent did not know where the bed bugs came from, but she is

blaming the Tenants for introducing them, despite the Tenant's evidence that other neighbouring units had the same issue.

When I consider the evidence before me overall, I find that the Landlord has not provided sufficient evidence to meet their burden of proof on a balance of probabilities. I, therefore, **dismiss the Landlord's Application wholly** without leave to reapply, pursuant to section 62 of the Act.

### Conclusion

The Landlord is unsuccessful in their Application, as they failed to provide sufficient evidence to meet their burden of proof on a balance of probabilities. The Landlord's Application is **dismissed wholly without leave to reapply**.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: December 05, 2022

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Residential Tenancy Branch