



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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A matter regarding ONNI PROPERTY MANAGEMENT SERVICES  
LTD. and [tenant name suppressed to protect privacy]

## DECISION

### Introduction

The Tenant seeks compensation under the *Residential Tenancy Act* (“Act”).

### Issue

Is the Tenant entitled to compensation?

### Background and Evidence

In an application under the Act, an applicant must prove their claim on a balance of probabilities. Stated another way, the evidence must show that the events in support of the claim were more likely than not to have occurred. I have reviewed and considered only that evidence which I find to be relevant to this decision.

The Tenant seeks \$131.25 in compensation from their Landlord. In early 2023 the Landlord hired a pest control company to deal with a cockroach infestation in the multi-unit residential building in which the Tenant’s rental unit is located. It was the pest control company’s assessment that the Tenant’ rental unit’s sanitary conditions facilitated or “helped” the infestation. As such, the Landlord sought reimbursement from this, and a few other tenants, for the cost of the pest control.

The Landlord sent an invoice, dated March 22, 2023, to the Tenant for the “CB [chargeback] for Pest Control Treatment” for \$131.25. On April 11, 2023, the Landlord’s subsidiary property management company (Capilano Property Management Services Ltd.) sent a notice titled “Breach of Tenancy” and “Re: Pest Control Charge Back” to the Tenant. The Landlord states that they would be holding the Tenant “responsible for any costs associated with pest inspections or additional treatments needed to have your unit and any surrounding units, brought to a safe, sanitary and healthy condition.” The notice ends with the following statement:

These matters constitute a breach of your tenancy. We would like to work with you on these matters. As such, you are receiving a Charge Back Notice for all pest control done in your unit. Failure to make payment and rectify the condition of your unit will result in a 30 —Day Notice to End Tenancy will be posted.

The Tenant paid the \$131.25 on May 13, 2024. It is the Tenant’s position that he ought not be charged for this, he paid it under threat of eviction, and he seeks reimbursement.

The Landlord’s position is that the Landlord was entitled to request a chargeback for those tenants in the building whose rental units contributed to the infestation issue. The Tenant’s rental unit was one of those rental units. The Landlord submits that they “felt due to the state of the rental unit we had to charge back [the cost of the pest control treatment].” The Landlord submitted that because the Tenant made the payment voluntarily that he must have accepted responsibility for the condition of the rental unit.

## **Analysis**

Section 7 of the Act states that if a party does not comply with the Act, the regulations or their tenancy agreement, the non-complying party must compensate the other for damage or loss that results. A party must do whatever is reasonable to minimize their loss.

To determine if a party is entitled to compensation, the following four-part test must be met: (1) Did the respondent breach the Act, the tenancy agreement, or the regulations? (2) Did the applicant suffer a loss because of this breach? (3) Has the amount of the loss been proven? (4) Did the applicant take reasonable steps to minimize their loss?

A tenant is required to pay rent, utilities (if required), and any fees permitted under the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 (“Regulation”). A tenant is under no legal obligation to pay any other monies or fees unless the Tenant (1) agrees, absent duress or coercion, to pay such monies or fees, or (2) is ordered to pay by way of an order issued by an arbitrator under section 67 of the Act.

However, in this dispute, the Landlord effectively gave the Tenant a choice: either pay the \$131.25 chargeback or receive a notice to end tenancy. Based on a review of the evidence before me, I am unable to find any provision or section in the Act, the Regulation, or the tenancy agreement that permitted the Landlord to impose a chargeback upon the Tenant.

The Landlord’s imposing a chargeback, whether negligently or intentionally, avoids or contracts out of the Act and the regulations. Any attempt to avoid or contract out of the Act or the regulations is of no legal effect (subsections 5(1) and 5(2) of the Act).

Thus, it is my finding that the Landlord breached section 5 of the Act by imposing a chargeback upon the Tenant. But for the Landlord’s breach of section 5 of the Act the Tenant would not have been effectively forced into paying the amount. (Leaving aside the threat of receiving a notice to end tenancy, which was, I find, wholly unnecessary and out of proportion to the underlying issues.) It is further my finding that there is little if anything the Tenant could have done to minimize their loss—not paying the chargeback risked being evicted.

It is not lost on me that the Landlord was, in fact, taking active and meaningful steps to eradicate a cockroach infestation. Pest control costs money. However, if a tenant and landlord cannot come to an agreement as to whether one should pay for such things as pest control, the landlord may seek a monetary order through dispute resolution under the Act. (Indeed, this is reflected in section 10(2)(b) of the *Residential Tenancy Agreement* which the Landlord referenced in its communication with the Tenant.)

Taking into consideration the evidence presented, and applying the law to the facts, I find on a balance of probabilities that the Tenant has met the onus of proving a claim for compensation in the amount of \$131.25. Further, the Tenant is entitled to recover the cost of the \$100.00 application fee, under section 72(1) of the Act.

Pursuant to subsection 72(2)(a) of the Act, the Tenant is authorized to deduct \$231.25 from a future rent payment due to the Landlord.

## **Conclusion**

The application is granted.

The Tenant is awarded \$231.25 and may deduct this amount from a future rent payment pursuant to subsection 72(2)(a) of the Act.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: March 23, 2024

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Residential Tenancy Branch