



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding Langley Lions Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **MNDCT, FFT**

### **Introduction**

This hearing dealt with an application by the tenants pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- for a monetary order for damage or compensation pursuant to section 67 of the Act
- for reimbursement of the filing fee pursuant to section 72 of the Act

Landlord's agents JD and DL appeared. Tenants DA and ES appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the Act.

### **Issue(s) to be Decided**

1. Is the tenant entitled to a monetary order for compensation?
2. Is the tenant entitled to recover the filing fee for this application?

### **Background and Evidence**

The tenancy commenced on September 1, 2000. Rent was \$320.00 per month due on the last day of the month. The landlord took a security deposit of \$500.00. The tenancy ended on October 31, 2021.

The tenants testified that on October 1, 2020 they found mice in the rental unit. They notified the landlord on October 4, 2020 and the landlord did not respond and attend to the rental unit until October 13, 2020. The rental unit was treated by pest control however both mice and cockroaches had damaged:

- The living room couch and loveseat
- An ottoman
- A mattress

The tenants provided pictures in evidence of the damaged couch and ottoman. They did not provided pictures of the mattress. The tenants stated that the landlord was aware of the mouse infestation prior to the tenants discovering them in the rental unit and the tenants believe that the landlord should have notified the occupants of the rental property of the issue prior to the tenants discovering the mice in their rental unit.

The tenants stated that they waited until they ended the tenancy to purchase new furniture because they didn't want to risk rodent damage to the new furniture. The tenants also stated that it took them time to make their claim as they were traumatized by the presence of mice and cockroaches.

The tenants also provided receipts for replacement of the couch, loveseat, and ottoman as well as the original purchase receipt for the mattress. The couch, loveseat and ottoman were not original receipts and replacement receipts were provided to the tenants. The tenants are also claiming compensation for having the furniture removed. The tenants provided a receipt for hauling in evidence.

The landlord did not deny that there were mice and cockroaches in the tenants' rental unit. The landlords testified that they took steps to have the problem treated by pest control. Pest control provided the landlord with a report regarding the infestation in the rental unit as well as pictures of the condition of the rental unit. The November 24, 2020, report states in part:

Added a bait station in upstairs master bedroom where noises have been heard.

Tenants just need to be constantly de cluttering to make the most out of the space they have.

Some more follow ups on this unit is needed for confirmation of last remaining mice to be deceased/no activity.

Tenants think there's a lot more chewing and damage from mice, but in reality there really isn't too much damage from them. Mice have just seized the opportunity of gaps/spaces of home.

The December 17, 2020, report from pest control states in part:

Mice: Inspected devices on interior of unit and found no mice activity. Speaking with tenants they have stated "no mice have been seen since December 4th 8am".

Cockroaches: Did a very thorough inspection throughout entire unit and dusted in various cracks and crevices. Inspected many cracks and crevices around the unit. Not one single cockroach dropping and no live cockroaches seen. There was however one baby cockroach that has been deceased on the same upstairs glueboards for the last few weeks. This was also confirmed by tenant this is the same cockroach and not a new addition.

Tenants claim they found 60 cockroaches in their shower curtains/bathtub. Tenants explained they squished every single cockroach and not one got away.

I inspected this area and did not find a single cockroach dropping. This is confusing as cockroaches leave large messes of droppings everywhere.

I asked tenants about cockroach droppings and showed pictures of what it looked like. Tenant explained that's not what they've found in the past. This tells me they haven't been finding cockroach droppings themselves either.

There was however lots of silverfish seen inside insect monitors.

Sanitation: The state of unit 8 has some big sanitation issues. Unit is very cluttered, old food, spills on floor, and most places are layered with boric acid, diatomaceous earth, and baking soda. I've explained to the tenants this is counter productive due to the large volume of powders everywhere. If there is still any cockroaches in this unit, they will avoid all areas where their powder has been applied. This also gets in the way for our powdered treatments.

Conclusion: This unit's cockroach issue is almost non-existent. I should have found some indication cockroaches are either still in unit 8 or have previously infested unit. None of which was found during today's inspection/treatment.

The position of the landlords is that the photos of the tenants of the furniture do not establish that the damage was caused by mice and the tenants contributed to the infestation by the condition of the rental unit. Further, if the damage was as excessive as indicated by the tenants, the tenants would not have waited as long as they did to replace the furniture and to then file a claim for damages.

## Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. As noted in Policy Guideline #16, in order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the tenants to prove their entitlement to a claim for a monetary award.

It is undisputed that there was a mouse infestation and to a lesser extent there were also cockroaches in the rental unit. Section 32 of the Act states in part:

**32** (1)A landlord must provide and maintain residential property in a state of decoration and repair that

(a)complies with the health, safety and housing standards required by law, and

(b)having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2)A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

I find that the landlord made attempts remedy the infestation, however I also find there was some minimal delay on the part of the landlord in taking these steps.

I have considered the evidence of both parties and I find that the tenants suffered some inconvenience and damage due to the presence of the mice. However, I find that the tenants have not established the extent of the damage as claimed for the following reasons:

- The tenants' pictures of damage do not clearly depict the damage to the couch and loveseat as being caused by mice. The pictures do not clearly depict the presence of mice around the furniture
- There are no pictures of the mattress damage
- The report of the pest control company states that the mice caused very little damage in the rental unit
- The receipts for the couch, ottoman and loveseat are unclear about how much the tenants paid to replace their furniture. For example, the receipt lists the couch price as \$1,214.64 with additional tax of \$145.75. The receipt lists the total price for the couch as \$1,428.99. However, the total of \$1,214.64 plus \$145.75 is \$1,360.39. It is not clear why the total is listed as \$1,428.99. The total cost of the couch is uncertain. The same applies for the loveseat and ottoman.

Further the report of the pest control company contains pictures of the rental unit. The pictures of the condition of the rental unit as well as the comments of the pest control company in the report suggest that the condition of the rental unit, with excess clutter

and mess contributed to the mouse problem and made eradication of the problem more difficult. I find that the tenants did not satisfy their requirements under section 32 of the Act.

As I have found that there is some inconvenience and damage suffered by the tenants due to the infestation, I have also considered RTB Policy Guideline 16 which states in part:

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

- “Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

Based on the RTB Policy Guidelines and the evidence provided by the parties and described above, I find the tenants are entitled to compensation in the amount of \$300.00 as nominal damages for the inconvenience and distress caused by the infestation.

As the tenants were partially successful in their application, they are entitled to recover the \$100.00 filing fee for the application.

### Conclusion

The tenants are granted a monetary order in the amount of \$400.00 for nominal damages and the filing fee. The monetary order must be served on the landlord. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: May 05, 2023