

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Interim Decision

Dispute Codes: CNC, LRE, MNDC, OLC, FF

### Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy, orders that the landlord comply with the Act and restricting the landlord's access to the rental unit and a monetary order. Both parties participated in the conference call hearing and had opportunity to be heard.

Time did not permit discussion of the entirety of the tenant's claim. The claim for a monetary order will be heard at a later date. This interim decision addresses the remainder of the tenant's claims.

At the hearing the tenant advised that he would be vacating the rental unit on March 31, 2009 pursuant to the notice to end tenancy. The tenant made it clear that his choice to vacate the rental unit was not an acknowledgment of the cause identified on the notice to end tenancy. The parties agreed that the landlord was entitled to an order of possession effective March 31, 2009. As the tenant intends to vacate the rental unit pursuant to the notice to end tenancy, I consider his application to set aside the notice to be withdrawn.

### Issue(s) to be Decided

Should the landlord be restricted from accessing the rental unit?

### Background and Evidence

The tenant requests an order that the landlord be restricted from accessing the rental unit for the duration of the tenancy. The tenant testified that the landlord or his agents have contacted the tenant on what he says is a daily basis. The reasons for the contact included showing the home, which has been listed for sale with a licensed realtor, serving documents related to this proceeding and performing repairs to the rental unit.

The means of contact includes email, telephone calls and visits to the rental unit. Both parties provided copies of email correspondence.

The landlord provided evidence that he or his agents accessed the rental unit on nine occasions since the beginning of the tenancy on October 24, 2008, each time after having given notice of entry. Five of the visits, on October 27 and January 9, 23, 26 and 28 were for the purpose of performing repairs. The landlord attended on February 2 to serve a notice to end tenancy and on February 12 to serve evidence. The remaining two attendances were related to the sale of the property, one visit for the purpose of erecting a sign on the lawn and an open house which was coordinated with the tenant and combined with an inspection.

The landlord stated that he would not show the house to prospective buyers until April but required access to the house for other purposes. The landlord maintains a storage shed on the property to which he has exclusive access under the tenancy agreement. There is also a leak in the roof of one of the outbuildings on the property which requires repair and the landlord testified that because the tenant's wife had reported a leak inside the rental unit, he wishes to inspect the roof to determine whether it has been compromised. The tenant argued that repairs to the roof on the outbuilding have been completed but acknowledged that a tarp is in place. The tenant adamantly insisted that his wife had not reported a leak in the roof of the rental unit and suggested that the landlord wanted further opportunity to harass him.

### Analysis

Having reviewed the evidence and testimony of the parties, I have determined that these are not circumstances under which it is appropriate to restrict the landlord's access. Restricting the landlord's access is in my view an extreme remedy which should only be granted where the tenant has proven that the landlord does not operate within the boundaries placed upon him by section 29 of the Act, which requires the landlord to give notice of entry for a reasonable purpose. On the occasions the landlord or his agents have accessed the unit, I find the purpose of each attendance has been reasonable. I find that the email correspondence which the tenant alleges is part of a campaign of harassment has not been unreasonable, excessive or inappropriate.

There is little evidence that telephone calls have been an ongoing problem, with the exception of an evening in which the tenant made multiple telephone calls to the landlord.

I decline to issue an order restricting the landlord's access to the rental unit. Although the landlord submitted a list of proposed dates of entry in response to my request for same, the landlord is not restricted to entering the rental unit or property on those dates but is reminded to continue to comply with the restrictions outlined in section 29 of the Act.

### Conclusion

In support of the agreement of the parties, I grant the landlord an order of possession effective March 31, 2009.

The tenant's application to restrict the landlord's access to the rental unit is dismissed.

The tenant's claim for a monetary order will be heard on a future date of which the parties will be advised.

Dated February 24, 2009.

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