



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

**OLD, RP, LRE, LAT, FF**

### **Introduction**

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have requested the landlord be Ordered to comply with the Act, make repairs to the unit, that conditions be set on the landlord's right to enter the rental unit, that the tenant's be allowed to change the locks to the rental unit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

### **Preliminary Matter**

The tenants did not submit any evidence.

The landlord submitted late evidence which the tenants received 2 days prior to the hearing. That evidence, with the exception of the tenancy agreement, which the parties have signed, was set aside and the landlord was at liberty to provide verbal testimony.

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

Must the landlord be Ordered to comply with the Act and to complete repairs?

Must conditions be placed on the landlord's right to enter the rental unit?

May the tenants change the locks to the rental unit?

Are the tenants entitled to filing fee costs?

### Background and Evidence

The parties testified that the tenants moved in early, on June 24 and 25, 2010, the tenancy agreement submitted as evidence indicated that the tenancy commenced on July 1, 2010; the tenants were allowed early access but were told that the landlord must be able to access the unit in order to complete the repairs that were required.

The tenants left some food in the refrigerator over the several days they were moving in and when they returned to the unit the food was gone.

The building manager had told the tenants he would be entering their unit on July 1, 2010, in order to complete repairs. The male tenant was upstairs when he heard knocking on the door; by the time the tenant got to the door, the building manager had begun to put his tools inside the door. After a period of time the building manager left and then returned approximately one hour later without giving the tenants notice of entry.

The building manager told the tenants he would return several days later, a Friday, but when the tenant asked if he could be called first, the building manager declined to do so, as he was too busy. As the tenant's sixteen year old sister was going to be home on her own on the Friday, on Thursday the tenants decided to change the locks to the rental unit.

The tenants believed the landlord attempted to enter the unit on the Friday, as the landlord issued them an August 3, 2010, written notice directing them to change the locks back to the landlord's lock set; evidence that the building manager had attempted to use his key to the unit. The tenants have yet to change the locks as they feel unsafe and do not want the landlord entering without prior notice. The tenants have a sixteen year old female living in the unit, who sunbathes on the balcony and they feel her safety could be at risk.

On approximately August 4, 2010, tenants went to see the building manager and gave him a copy of the Residential Tenancy Branch Fact Sheet outlining the right to enter the rental unit by the landlord. The tenants alleged that the landlord yelled at them and pushed them out the door. The tenants attended at the police office and obtained a police file number.

The tenants want to have the carpet in the upper level of the unit replaced as it is stained. The closet doors require some repair and a light switch is malfunctioning.

The landlord investigated the complaint made by the tenants, alleging that proper notice was not given for entry to the rental unit and she could not find any basis for the

complaint. The building manager is a trusted employee who has not acted inappropriately in the past.

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The building manager, who has worked for the landlord for over 5 years, attended the rental unit on a pre-determined date, July 1, 2010, to complete repairs and the male tenant was able to view the building manager through the window, that he acknowledged the manager, but did not open the door. When the tenant did not open the door the manager entered and was directed to a bedroom where there was a hole in the wall.

When the building manager attempted to enter the unit on the Friday, it was in the company of a pest control technician, as the tenant had reported a wasp nest on the balcony. After knocking on the door the manager noticed that the lock had been altered. No request had been made by the tenants, allowing them to change the locks. The building manager had noticed that the lock to the rental unit had been changed as they use only one type of lock set for all units and the tenants had changed to a Manchester lock set, which has a different appearance.

The tenant's allegation that the building manager pushed the tenant was vehemently denied by the building manager. The landlord's witness was present when the tenants met with the manager in his office; he did not witness any physical contact that is alleged and was present until the tenants left the office. The landlord was never contacted by the police for an interview or to discuss the allegation the tenants have made.

The building manager is now very apprehensive and does not wish to enter the rental unit, even if a witness is present. The manager feels the tenants have accused him of illegal entry to the unit and have insinuated that he could place a sixteen year old female who lives in the unit, at risk, something that he found extremely disturbing.

The landlord told the tenants if they had any security concerns they could place a chain lock inside the unit, for use when they are at home. This would provide assurance that no one could enter the unit, even if they did have a key. The landlord rejected the tenants claim that the building manager would ever enter a unit without a prior arrangement or mutual agreement with a tenant.

The landlord replaces carpet every fifteen years, or on the advice of their professional carpet cleaning company, should there be stains that cannot be removed. The main floor carpet was replaced with laminate when the tenants moved in and the upstairs carpets were cleaned found to be in good condition.

### Analysis

There was no evidence before me as to what happened to the food left in the refrigerator.

In relation to repairs, I find that the tenants have denied the landlord entry to the unit. Written notice of entry for repair would be in vain if the landlord was not able to enter the unit at the desired time. It would not be reasonable to give written notice only to find that the tenants were not home and entry was not possible.

I find that the tenants must immediately replace the lock they installed, in breach of section 31 of the Act, with the original lock set that was on the door. This cost is to be assumed by the tenants and if the original is not able to be reinstalled the tenants must pay the cost of reinstallation by the landlord. The tenants may install a security chain on the inside of their door, as suggested by the landlord, for use when they are at home.

I find that the building manager believed he had a mutual agreement to enter the unit on July 1, 2010, and I base this upon the testimony and the agreement between the parties that allowed the tenants early access to the unit, in the understanding that repairs were required.

I find any insinuation that the building manager somehow meant to breach the security of the tenant's home and that he could possibly threaten the security of a sixteen year old female, completely baseless. This is a serious accusation, without any merit, one which could hamper the landlord's lawful right to maintain the unit, due to the fear instilled in their employee. The employee has expressed concern that he could be vulnerable to further false allegations. The tenants must be warned that allegations of this nature, without cause, could negatively impact their tenancy.

The tenants knew work was to be completed on the unit, were present when the building manager attended on the first occasion and then falsely accused the manager of an attempted illegal entry on a day they knew he was coming to deal with the wasp nest. The landlord may have been operating on the assumption that the tenants would be cooperative and provide mutual consent for entry; however, this was not the case.

In the future the landlord will provide twenty-four hour written notice of entry, as required by section 29 of the Act; despite any possible mutual agreement that may have been provided or suggested. The tenants do not have to be present and make not refuse the landlord entry for any reasonable purpose; for example the repairs that the landlord would like to complete. I find there is no reason to set any limits on the landlord's right to enter the rental unit, as provided by the Act.

The landlord will complete the repairs that are necessary as required by section 32 of the Act. The upstairs carpets will not be replaced unless on the advice of the carpet cleaners hired by the landlord or according the landlord's policy, which I find reasonable.

The accusation made in relation to the building manager having assaulted the tenants by pushing them, was disputed by the building manager and the witness. It is obvious that the relationship between the tenants and the building manager has now been tainted by the accusations; however, I preferred the building manager's testimony and that of the witness, over the tenants. The tenants offered no evidence that the landlord pushed them and no effort was made by the police to investigate the allegation made by the tenants. Obtaining a police report file number provides no support to the veracity of the tenant's claim, it only serves as a record that a report of some sort has been made. I find, on the balance of probabilities, that if there was a dispute between the parties, that no evidence of any assault has been established.

Therefore, the tenant's Application is dismissed.

As the tenants Application is without merit, I decline filing fee costs to the tenants.

### Conclusion

The tenant's must immediately reinstall the landlord's lock set to the door of the rental unit and any costs incurred will be the responsibility of the tenants.

The landlord will follow the provisions of section 29 of the Act, when accessing the rental unit.

The landlord will complete any repairs required as required by section 32 of the Act.

The tenant's claim is dismissed.

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: September 16, 2010.

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Dispute Resolution Officer