



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant for an order requiring the Landlord to comply with the Act, regulations or tenancy agreement by way of suspending or setting conditions on the Landlord's right to access the rental unit and confront the Tenant.

Both the Tenant and the Landlord appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross examine each other. I find all documents, Application for Dispute Resolution and evidence of the parties, was served in the time and manner in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the Tenant entitled to an order that the Landlord comply with the *Act*, regulation or tenancy agreement regarding her quiet enjoyment?

### Background and Evidence

This tenancy began on June 1, 2010, with a monthly rent of \$650.00 payable on the first day of the month, and a security deposit of \$325.00 being paid on June 1, 2010. I note that neither party submitted the tenancy agreement into evidence.

### Tenant's Relevant Testimony:

The Tenant gave affirmed testimony that the Landlord has come to her rental unit on numerous occasions uninvited and unannounced for discussions about the tenancy.

The Tenant testified that the Landlord has also made numerous phone calls to her, again to discuss the tenancy terms and complain about certain issues.

The Tenant testified that she just wants the Landlord to leave her alone to live in her rental unit without constant interference and in peace.

The Tenant's witness, who lives in an adjacent rental unit from the Tenant and is also a tenant of the Landlord, confirmed that the Landlord believes she can phone her tenants at any time. Additionally the Witness has heard the Landlord place the calls to the Tenant.

**Landlord's Relevant Testimony:**

The Landlord confirmed the testimony of the Tenant, stating she felt justified in making the phone calls and visits because she believed there were problems which needed discussing.

The Landlord further testified renting a portion of her home was to make money; otherwise she would not have the inconvenience of tenants. This was the Landlord's justification for making the phone calls and visits to discuss problems.

**Analysis**

I find the Landlord has clearly breached Section 28 of the *Act of the Residential Tenancy Act* and must comply with the *Act* if she intends to be a Landlord.

Section 28 deals with the Tenant's right to quiet enjoyment, meaning reasonable privacy, freedom from unreasonable disturbance and *exclusive possession* of the rental unit. I accept the uncontradicted testimony of the Tenant, confirmed by the Landlord, that the Landlord has repeatedly phoned and knocked on the Tenant's door without invitation and unannounced. Therefore I find the Landlord has not provided the Tenant with her right to quiet enjoyment, in accordance with section 29 of the *Act*.

I do not make a finding of monetary compensation for devaluation of the tenancy for this loss as the Tenant has not applied for the same.

The only exception that would apply in these circumstances is an emergency which requires the Landlord to enter the unit to protect life or property, which I find did not exist.

The Landlord is **ordered** to adhere to the terms of the Act, when seeking access to the unit and for other dealings with the tenancy, failing which the Tenant is at liberty to file an Application seeking monetary compensation for devaluation of the tenancy.

I have included a guidebook to the Act for the Landlord to use as a reference.

Lastly, because the Tenant was successful in her Application, I allow the Tenant the **\$50.00** filing fee for the Application, and allow her to deduct this amount from the November, 2010, rental payment.

### Conclusion

I order the Landlord comply with the Act and direct that the Tenant be given quiet enjoyment of the rental unit and premises.

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: October 21, 2010.

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Dispute Resolution Officer