



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, CNL, MNDC, O, and FF

### Introduction

This application was brought by the tenant on March 13, 2012 seeking to have set aside a Notice to End Tenancy for unpaid rent, a Notice to End Tenancy for Landlord Use, monetary compensation for loss of quiet enjoyment and aggravated damages, recovery of costs incurred in preparing her application and moving expenses and recovery of the filing fee for this proceeding.

At the commencement of the hearing, it was determined that the Notice to End Tenancy for unpaid rent of March 10, 2012 was extinguished by payment of the rent on March 14, 2012. In addition, the tenant stated that she would be leaving the tenancy on May 1, 2012 pursuant to the Notice to End Tenancy for landlord use and it is no longer necessary to consider whether that notice should be set aside.

### Issue(s) to be Decided

This application now requires a decision on whether and in what amount the tenant may be entitled to monetary compensation for loss of quiet enjoyment, costs arising from filing this application and moving expenses.

### Background and Evidence

This tenancy began on September 1, 2011. Rent is \$850 per month and the landlord holds security and pet damage deposit of \$425 and \$300 respectively, both paid on September 1, 2012. The rental unit is in a suite in a home occupied by the landlord.

The landlord was represented by his daughter who gave evidence that the incidents leading to this dispute were in part influenced by some lapses in memory and judgement due to her 80-year old father's age and limited command of English.

During the hearing, the parties concurred that the landlord had served the tenant with a Notice to End Tenancy for landlord use on December 6, 2012, setting an end of tenancy date of May 31, 2012. The parties are aware that such notice entitles the tenant to the equivalent of one month's rent in compensation and that the tenant may leave the tenancy on 10 days written notice. The rental unit is needed to accommodate the landlord's wife who has been living apart from him.

At present, the landlord is residing with his daughter following an incident on February 28, 2012 when the tenant called police after the landlord had physically blocked her egress from the rental unit.

The tenant alleges that the landlord had substantially diminished her quiet enjoyment of the rental unit by:

- Entering the rental unit without proper notice, sometimes imposing at inopportune times, and sometimes when she was not home, evidenced on at least once occasion by what the tenant described as ink on her light switches;
- Locking the common main entrance to the home from the inside after 10 p.m., which at times inconvenienced by the tenant and her sister who visited to care for her cat;
- Stopping in his car while she was walking to the bus for work on October 1, 2011 to ask for the rent;
- Repeatedly calling her at work in mid November with questions about her utilities payment;
- Twice opening the tenant's mail and hesitating on one occasion to provide her with a key to the rental unit;
- On February 28, 2012, physically blocking the tenant's egress from the rental building, insisting on talking to her about utilities bills after she had assured him the matter had been addressed by his daughter, grabbing her by the shoulders, and shaking and yelling after she slipped by him.

Police officers recommended to the tenant that, under the circumstances, a negotiated resolution would be preferable to charges.

To that end, the tenant proposed to the landlord by letter of March 1, 2012 that;

1. He remain out of the rental building for the duration of her tenancy
2. His daughter be the only contact with the tenant,
3. She remain in the rental unit rent free until April 30, 2012 at the latest
4. That the landlord pay the tenant \$3,000 in compensation for the harassment and assault;
5. Return the security and pet damage deposit following a final inspection. .

The landlord replied by letter of March 6, 2012 declining the tenant's demands except for the promise he made to police officers that he would not return to the rental building until after the tenancy expired on May 31, 2012 or when the tenant vacated. He denied having grabbed the tenant by the shoulders or entering the rental unit without permissions.

### Analysis

Section 28 of the Act ensures a tenants right to quiet enjoyment of the rental unit including, reasonable privacy, freedom from unreasonable disturbance, exclusive possession and, use of common areas free from significant interference. Section 31 of the *Act* attempts to ensure that tenants have keys to enter the rental building and rental unit at all times.

I find that all loss of quiet enjoyment considered, including the aggravated damages claimed by the tenant for the incident of February 28, 2012, that the tenant is entitled to total compensation of \$600.

The tenant further claims \$760 for loss of pay arising from the conduct of the landlord. I do not find in the evidence before me any cause in which the landlord's actions directly resulted in tenant's loss of pay and that any time taken from work was taken at her discretion. Therefore, this claim is dismissed.

The tenant further claims \$400 for moving expenses. I find that the equivalent of one month's free rent provided to tenant's receiving a Notice to End Tenancy for landlord use contemplates moving costs and that the tenant will be reasonably compensated by that provision.

Having found some merit in the tenant's application, I find that she is entitled to recover the filing fee for this proceeding from the landlord.

Therefore, I find that the tenant is entitled to a Monetary Order for \$650, comprised of the \$600 award for loss of quiet enjoyment and aggravated damages and \$50 for recovery of the filing fee for this proceeding.

### Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$650 for service on the landlord.

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: March 26, 2012.

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Residential Tenancy Branch