



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, RP, RR

### Introduction

This hearing dealt with an application by the tenant for an order for the landlord to comply with the Act, for the landlord to complete repairs and to allow the tenant to reduce rent for repairs.

Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

This tenancy began December 1, 2006 with monthly rent of \$700.00 and the tenant paid a security deposit of \$350.00. The tenant named in this application took over the tenancy approximately 5 years ago but is not named on the tenancy agreement and has not signed a written tenancy agreement with the landlord..

The tenant testified that the elevator door bangs shut and constantly disturbs him in his rental unit which is located next to the elevator, the tenant also believes that this is a safety concern. The tenant maintained that this disturbance had been going on for the past year and that building management must be aware of the problem. The tenant stated that he had spoken to a tenant in the building that had apparently complained to the building manager about the noise but acknowledged that he did not provide any witness's or witness statements to corroborate this statement.

The tenant stated that on numerous occasions he had verbally mentioned the problem of the elevator door banging to the building manager and that the tenant's first complaint in writing to the building manager was March 16, 2012. The tenant acknowledged that his claim may not be proven without the benefit of supporting documentation or witness statements.

The landlord testified that the elevator is in good working order and that the elevator door does bang shut but that this only happens on an intermittent basis. The landlord stated that this is a 10 story building and they have never had complaints from any other tenants in the building regarding noise from the elevator door banging shut. The landlord stated that they are very pro-active in addressing any concerns tenants have and always attempt to complete any required repairs within 24 hours of being notified.

The landlord referred to documents submitted into evidence which show that the elevator was serviced in mid 2011 and that an operating permit for the elevator was issued in February 2012 by the BC Safety Authority. The landlord stated that this documentation establishes that the elevator is working properly and safely.

The landlord maintained that the tenant's application was filed in retaliation to an inspection the landlord completed in the tenant's rental unit earlier this year when the tenant's rental unit was found to be in less than acceptable condition. The landlord stated that since that time the tenant has made demands and threatened the landlord to the point where the landlord's attorney had to advise the tenant in writing to cease.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has not met the burden of proving that they have grounds for entitlement to an order for the landlord to comply with the Act, for the landlord to complete repairs or to allow the tenant to reduce rent for repairs.

The tenant makes the claim of the elevator door constantly banging shut and disturbing him but has not provided any supporting documentation from a professional or statements from other tenants in the building to verify this claim. The landlord however has provided evidence of the elevator being serviced in mid 2011 along with a copy of the elevator operating permit issued by the BC Safety Authority in February 2012. Therefore I find that the tenant has not established that the elevator door bangs shut and constantly disturbs him in his rental unit.

The tenant's application is hereby dismissed in its entirety without leave to reapply.

### Conclusion

The tenant's application is dismissed without leave to reapply.

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: April 17, 2012

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Residential Tenancy Branch