



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF. LRE, OLC

### Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request for an order for the landlord to comply with the Residential Tenancy Act, an order to suspend or set conditions on the landlord's right of entry to the rental unit, and an order for recovery of the filing fee.

### Background and Evidence

The applicant testified that:

- The landlord has entered her rental unit three times without her consent.
- The first time he entered was to change an air filter, and she was just going to let that go.
- He entered a second time however while she was asleep on the couch and she woke up to find him and his wife in the unit.
- The third time was with regards to a sprinkler system and she had asked him not to enter until she was there, however he entered again anyway.
- She has also had realtors coming and going and on numerous occasions she has come home to find the doors unlocked, so it's obvious the realtors have been there and then not lock the doors.

- She is a single mom and it concerns her that people are entering her rental unit without the required authority to do so.
- She would therefore like the landlord to be informed of what his obligations are before entering the rental unit.

The respondent testified that:

- He has entered three times without permission however each time he thought the entry was reasonable.
- The first time he entered was to change the air filter for the tenant and therefore he assumed it was something she would want done.
- The second time he entered he thought the tenant was out of town and when he heard somebody in the rental unit he thought it might be an intruder.
- The third time he entered was when there was a problem with a sprinkler system and he had gone there with a sprinkler serviceman who said there was a serious problem and therefore he thought it was prudent to enter so that he could turn off the water system.
- He finds the tenant very hard to get ahold of because she travels frequently and also fails to answer her texts on many occasions.
- The house is for sale and it needs to be shown by realtors and when she is unavailable he thought it was his right to then allow the realtors into the rental unit.

### Analysis

The following is a section of the Residential Tenancy Act on the landlord's right of entry.

#### **Landlord's right to enter rental unit restricted**

**29** (1) A landlord **must not enter** a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

**(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:**

- (i) the purpose for entering, which must be reasonable;
- (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

(c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;

(d) the landlord has an order of the director authorizing the entry;

(e) the tenant has abandoned the rental unit;

(f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

Of the three entries made by the landlord, only the third could possibly be considered a legal entry, as it appears the landlord may have been entering to protect damage to the property caused by a faulty sprinkler system, however I would not consider the other two entries to have been reasonable.

At the hearing I explained the landlord's rights and obligations with regards to entry to the rental unit, and the landlord stated that he would comply.

For clarification on service of documents I have included sections 88 and 90 of the Residential Tenancy Act below.

### **How to give or serve documents generally**

**88** All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1)  
*[director's orders: delivery and service of documents]*;
- (j) by any other means of service prescribed in the regulations.

**When documents are considered to have been received**

**90** A document given or served in accordance with section 88 [*how to give or serve documents generally*] or 89 [*special rules for certain documents*] is deemed to be received as follows:

- (a) if given or served by mail, on the 5th day after it is mailed;
- (b) if given or served by fax, on the 3rd day after it is faxed;
- (c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;
- (d) if given or served by leaving a copy of the document in a mail box or mail slot, on the 3rd day after it is left.

**Conclusion**

The landlord is ordered to comply with the Residential Tenancy Act, and I order that the landlord bear the cost of the \$50.00 filing fee. The tenant may therefore make a onetime \$50.00 deduction from future rent payable to 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: May 17, 2012.

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Residential Tenancy Branch