



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, LAT, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks to the rental unit pursuant to section 70; and
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. Those attending on the landlord's behalf testified that they are siblings and that ownership of the rental building is shared between members of their family. As such, I allowed all three of the landlord's representatives to act as landlords for the purposes of this hearing. Mr. GG (the landlord), the eldest of the siblings acted as the chief spokesperson for the landlord at this hearing. The landlord confirmed that on March 20, 2013, the tenant handed him (or his brother) a written notice to end this tenancy by April 30, 2013. As this tenancy is ending shortly, the tenant withdrew her application for authorization to change the locks to the rental unit.

The landlord confirmed that his family received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on March 20, 2013. I am satisfied that the above documents were served by the tenant to the landlord in accordance with the *Act*. I am also satisfied that both parties served one another with their written evidence packages in advance of this hearing and were prepared to give sworn testimony regarding their evidence and the other party's evidence. Although the tenant submitted her written evidence late, the landlord confirmed that his family had obtained her evidence in sufficient time to prepare for this hearing.

Issues(s) to be Decided

Is the tenant entitled to a monetary award for losses arising out of this tenancy? Is the tenant entitled to recover the filing fee for her application from the landlord?

Background and Evidence

This periodic tenancy for a rental unit in the landlord's rental building commenced on January 1, 2008. Current monthly rent is set at \$715.00, payable in advance on the first of each month. This monthly rental includes parking. The landlord continues to hold the tenant's \$340.00 security deposit paid on or about December 20, 2007.

The tenant applied for a monetary award of \$2,370.00. She maintained that her rights to privacy have been violated during the tenancy primarily by the landlord named in her application (RG). She maintained that since she entered into this tenancy, someone has been entering her rental unit and tampering with her personal belongings, credit card bills, bank statements, personal and private mail. She also noted that some of her jewellery has gone missing from her rental unit, mail has been placed in the outside of her mailbox instead of in her secure mailbox, and her laundry has been moved to other locations. She alleged that these incidents occur most frequently when she is away from the rental unit for an extended period of time. She maintained that others in her building have heard someone in her rental unit when she has been away on holidays. She claimed that whenever she raised her safety concerns regarding her rental unit with Landlord RG, he exhibited passive aggressive behaviour, maintaining that she had some type of mental illness. She referred to two police reports that she filed on December 27, 2011 and October 10, 2012. She did not enter copies of these reports into written evidence, although she said that she did have them.

The tenant also provided sworn testimony and written evidence that she had an Alarm Force security system installed in her rental unit after she filed the second police report, at her own expense, to improve her feelings of security. However, she maintained that someone tampered with this system and turned off the power to her rental unit. Although there was conflicting evidence regarding whether the tenant has taken it upon herself to change her locks, there is undisputed evidence that the landlord did change the locks once at her request.

The tenant maintained that the landlord has refused to take her concerns regarding the security and privacy afforded to her during her tenancy seriously. The tenant suspected that it is Landlord RG who has been entering her rental unit and withholding some of her mail. She gave evidence that RG has exhibited an undue fascination with her mail and her rental unit since she allowed him to pick up her mail when she was away on vacation at one point in her tenancy.

The tenant claimed that the landlord should be responsible for her moving costs, costs of entering into a new tenancy elsewhere, and for a monetary award for her loss of quiet enjoyment of her rental unit. The tenant outlined the following compensation she was seeking from the landlord for the failure to take her rights to privacy seriously and for the landlord's part in affecting her peace of mind:

<b>Item</b>	<b>Amount</b>
Estimated Moving Costs	\$255.00
Cost of First Month's Rent at New Location and Cost of Damage Deposit for New Tenancy	1,200.00
Cost of Installing Alarm System	175.00
Waiver of Last Month's Rent in this Tenancy	715.00
Changing of Locks	200.00
<b>Total of Above Items</b>	<b>\$2,545.00</b>

The tenant provided no receipts, invoices or estimates to support her application for a monetary award. She entered into written evidence two short letters to support her allegations. One of these was from a co-worker recounting her recollection of her conversations with the tenant about the tenant's ongoing concerns about her rental unit. The other letter is from another tenant in the building who witnessed a letter hanging on the outside of the tenant's mailbox on March 15, 2013, instead of inside the tenant's mailbox. On this latter point, the landlord noted that tenants in the building often place letters inadvertently deposited in their mailbox into the correct mailbox. The tenant did not dispute that this could have occurred on March 15, 2013, or from to time.

The landlord and RG provided sworn testimony and extensive written evidence to dispute the tenant's claim that any of the landlord's family have been entering the tenant's rental unit. They provided many letters of support from other tenants in the building, many of whom were long-term tenants, to register their full confidence in RG. They also entered into written evidence a copy of a report from the power company, confirming that there was a power outage on the day that the tenant's new security system malfunctioned. The landlord said that he and his brother were greatly relieved when the tenant told them that she was installing a security system in her rental unit as this would hopefully provide her with the sense of security that she felt was missing. The landlord testified that he suggested that the tenant contact the police and file a report if she believed that someone was entering her rental unit illegally. The tenant confirmed that the police have not charged anyone regarding illegal entry to her rental unit or for tampering with her mail. The landlord entered sworn oral testimony and

written evidence regarding a laundry incident where another tenant in the rental building said that she had placed the tenant's laundry in another location in the laundry room when the tenant did not attend to her laundry shortly after the cycle had finished.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In considering the tenant's claim for a monetary award for moving costs, the installation of an alarm system and changing locks, I find that the tenant has not submitted any written evidence in the form of receipts, invoices or estimates to demonstrate that she has suffered these losses. Her moving costs have not yet been incurred and she provided no evidence of incurring costs to install new locks, nor has she been authorized to change the locks. I dismiss all of the above portions of the tenant's claim for a monetary award without leave to reapply as I find that the tenant has failed to provide evidence to verify any actual losses or entitlement to a monetary award from the landlord for these items.

Section 28 of the *Act* establishing s a tenant's right to quiet enjoyment of a rental unit during a tenancy reads in part as follows:

**28** *A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:*

*(a) reasonable privacy;*

*(b) freedom from unreasonable disturbance;*

*(c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [landlord's right to enter rental unit restricted];...*

The *Act* also allows me to issue a monetary award if I am satisfied that the landlord's actions have diminished the value of a tenancy agreement.

I have no doubt that the tenant is sincere in her belief that her privacy and security have been jeopardized in her current tenancy. Given her suspicions, the ongoing anxiety she has felt and the landlord's exasperation with this situation, it would seem that her decision to end this tenancy and move to another community is a wise one for all parties. However, the tenant bears the burden of proof with respect to her significant claim for a monetary award for the loss in value of her tenancy. She must demonstrate that the landlord is responsible for this loss in value.

I have carefully reviewed the tenant's claims for a monetary award for her first month's rent and payment of a security deposit at her new rental location in another community and waiver of her last month's rent in this tenancy. I find that the tenant has produced little evidence to establish her entitlement to these claims, other than her sworn testimony and her speculation on what has occurred when she has been absent. She produced no witnesses regarding her allegations and supplied letters of support that give little weight to her claim for a monetary award. In her closing remarks, the tenant testified that "it may not seem like I have sufficient evidence" to demonstrate my entitlement to a monetary award. On this point, I would wholeheartedly agree. Based on the evidence before me, I find the tenant's application for a monetary award for loss of quiet enjoyment and privacy in this tenancy falls woefully short of meeting the standard required to grant her any monetary award from the landlord. For these reasons, I dismiss the tenant's application for a monetary award for recovery of rent at her existing tenancy, and for her first month's rent and security deposit at her new rental location without leave to reapply.

As the tenant has been unsuccessful in her application for a monetary award, I dismiss her application for recovery of her filing fee from the landlord without leave to reapply.

#### Conclusion

The tenant's application to have her locks changed is withdrawn. I dismiss the remainder of the tenant's application 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 18, 2013

