



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: O RR FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) Compensation for the landlord infringing on her right to privacy and reasonable enjoyment pursuant to section 28 by knocking, swearing and threatening her, sending threatening emails to her while she worked and visiting her place of employment and making derogatory comments about her;
- b) Compensation for the landlord entering her suite for showings without giving the required notice under section 29 of the Act;
- c) A rent rebate for the loss of use of her dryer for 18 days;
- d) Compensation for the purchase of heaters necessary to warm her suite; and
- e) To recover the filing fee for this application.

### **SERVICE**

I find that the landlord was served with the Application for Dispute Resolution hearing package by registered mail. They stated they received it.

### **Issue(s) to be Decided:**

Has the tenant proved on the balance of probabilities that the landlord infringed her right to privacy and reasonable enjoyment, showed her suite without proper notice, neglected to repair her dryer and that she had to purchase heaters to get adequate heat for her suite? If so, to how much compensation has she shown entitlement?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in May 2011, rent was \$1000 per month and then rose to \$1100 per month and a security deposit of \$750 was paid. The security deposit has since been refunded in full.

The tenant claims compensation as follows:

- i) \$1100: as a refund of May's rent as she was afraid due to an incident on May 2, 2014 and had to leave and rent with a long term friend who gave her a receipt for \$750 rent for the room.
- ii) \$150: for stress caused by the landlord sending her nasty emails at work
- iii) \$200: for loss of use of the dryer for 18 days – May 2-May 18, 2014
- iv) \$200: for various threatening emails sent to me at work.
- v) \$50: for multiple showings of the unit and the landlord touching and unplugging her things.
- vi) \$150: for the letter the landlord dropped off at her work and saying horrible things there.
- vii) \$300: for purchase of heaters used to warm her suite.

The landlord said that she had a dispute with the tenant for she overheard her calling the tenancy branch on May 2, 2014 and telling lies about a refusal to fix the dryer. She said she told her that she had not had 24 hours notice to fix it yet and she could call the tenancy branch also and find out her rights. She said she had knocked on her internal door twice and then went to her entry door and after this, called the police who told her the tenant had also called; she said the constable checked the breaker of the dryer and it was fine. The landlord said she had a hearing scheduled in 2015 under file #827617 where she has filed some letters of persons who had checked the dryer and it was working fine.

The landlord pointed out that the emails were not nasty as some of them were to advise of showings of the unit to prospective tenants and they went to the tenant's own email account; others were to do with the dispute over the security deposit. The landlord did admit that she went to the tenant's workplace to leave a letter and the cheque for the security deposit and when a secretary approached her, she did say she preferred to leave the letter for the tenant in her mail slot as the tenant 'was not a nice person to her'. The secretary said that this was surprising as she had found the tenant pleasant. The landlord said that she did unplug four air fresheners left running by the tenant since early morning but had not broken anything. Both parties agreed that the tenant gave the landlord permission to show the suite anytime; the tenant said she kept it clean and tidy, ready for showings.

The tenant said she had no invoices for the heaters. The home was air conditioned upstairs so was cold in the summer in her suite. The landlord said that she had informed the tenant at the beginning of the air conditioning and the tenant said it was fine as she liked to be cool. The landlord also noted that she had only seen one heater which can be purchased for \$25-\$30 at a local store and she had been in the unit many times.

The tenant described how she had suffered from an abusive relationship and wanted to protect her safety but the landlord has been communicating with her ex-husband. The landlord said that after the tenant left, the ex husband had requested an Affidavit from her as the matter of custody is before the courts. She said she never revealed personal details on the tenant to him prior to that Affidavit and she thinks he may have found the home by seeing his son on the street and having him point it out.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

Section 28 of the Act sets out the tenant's right to privacy and quiet enjoyment.

*Protection of tenant's right to quiet enjoyment*

*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];*
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.*

As pointed out to the parties, the onus is on the Applicant to prove their claim on a balance of probabilities. I find insufficient evidence to support the tenant's allegation that she was forced to leave the unit because of the landlord's argument with her on May 2, 2014. I find insufficient evidence that the landlord's words were aggressive or threatening to the point of forcing her to leave for her own safety. I find the landlord made a persuasive argument when she pointed out that the tenant's actions in not taking all her belongings and continuing to return to the unit until May 29, 2014 (when she returned the key) were not the actions of a person who felt personally threatened by the landlord. I find the landlord's argument supported by the fact that the tenant said she continued to try to use the dryer sporadically during that period. I dismiss the tenant's claim for a refund of rent for May 2014.

In respect to her claim for stress of nasty emails at work, I find these emails are to her personal email which indicates to me that she did not have to open them at work. Furthermore, I find most of them were to do with the tenant's contention that she should have a full refund of her security deposit and were not a personal attack on her. I dismiss this portion of her claim.

Regarding the loss of use of the dryer, I find insufficient evidence to support her allegation that the dryer was not working. The tenant did admit that she had tripped the breaker sometimes during the tenancy and said she checked periodically after she left to see if the dryer was working and it was not. The landlord denied that it was broken and said she had provided evidence for her own hearing at a later date. In this hearing, the onus is on the tenant to prove the dryer was not working and I find insufficient evidence provided by her to satisfy the onus.

However, I find the weight of the evidence is that the landlord infringed her privacy and peaceful enjoyment contrary to section 28 by going to the tenant's workplace and making a negative comment about her. I find the landlord's own evidence supports this claim of the tenant. I find the tenant entitled to compensation of **\$150** as claimed for this invasion of her privacy. I find also that the landlord invaded her privacy also by turning off items in her suite while showing it to prospective tenants. While I find the tenant gave the landlord free permission to access the suite, this did not include permission to touch the tenant's items or interfere with them by turning off the air fresheners. I find the tenant entitled to compensation of **\$50** as claimed for this invasion of her privacy and peaceful enjoyment.

I find insufficient evidence that the tenant purchased heaters or that they cost \$300 or that she had requested permission from the landlord and reimbursement for them as required for emergency issues under section 33 of the Act. I dismiss this portion of her claim.

**Conclusion:**

I find the tenant entitled to a monetary order (enclosed) for \$250 which includes recovery of her filing fee for this application.

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, 2014

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Residential Tenancy Branch

