



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, RR. AAT, O

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on March 31, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing and the Amended Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the Notice to End Tenancy dated March 31, 2015?
- b. Whether the tenants are entitled to an order for the repair of the intercom system?
- c. Whether the tenants are entitled to an order the landlord provide a way for her scooter to access the rental unit?

- d. Whether the tenants are entitled to an order that the landlord provide a copy of the Condition Inspection Report prepared at the time the tenants took possession?
- e. Whether the tenants are entitled to an order for the repair of a leaking outside tap and the repair of the balcony
- f. Whether the tenants are entitled to an order for the reduction of rent?

### Background and Evidence

The tenancy began on July 1, 2014. The tenancy agreement provided that the tenant(s) would pay rent of \$7500 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$375 prior to the start of the tenancy.

### Application to Cancel the one month Notice to End Tenancy:

#### Grounds for Termination:

The one month Notice to End Tenancy relies on section 47(1)(d), (e) and (h) of the Residential Tenancy Act which provide as follows:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

...

- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (i) has caused or is likely to cause damage to the landlord's property,

(h) the tenant

- (i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Analysis:

The landlord testified the tenants have an unreasonable large number of possessions in their rental unit. The landlord submits this is a fire hazard. She testified that during her inspection at the end of March it was very difficult for her to gain access to the patio because of the belongings. The tenant disputes this allegation. She testified the rental unit is not a fire hazard.

The landlord has the burden of proof to establish sufficient cause to end the tenancy based on a balance of probabilities. The parties must present proof to establish their claim. After considering the disputed evidence I determined the landlord has failed to establish sufficient cause to end the tenancy. The landlord failed to present sufficient evidence to establish that the presence of the tenant's belongings amounts to a fire hazard. The landlord did not present photographs or evidence from an expert that would establish the allegation. There is insufficient evidence to establish the landlord has seriously jeopardized the health and safety or other lawful right of another occupant or the landlord or put the landlord's property at significant risk. There is insufficient evidence to establish the tenants have engaged in an illegal action or breached a material term of the tenancy agreement.

Determination and Orders:

As a result I determined that the landlord has failed to establish sufficient cause to end the tenancy. As a result I ordered that the Notice to End Tenancy dated March 31, 2015 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

Application for the Repair of the intercom System:

The landlord has parts on order for the repair of the intercom system. She expects that she will be able to complete the repairs within 60 days. **I ordered that the intercom system be repaired by July 21, 2015.**

Application for an Order that the landlord provide the tenant with an way her scooter can access the rental unit?

The tenant's husband constructed two small ramps that permitted the tenant access to the rental unit for her scooter. The previous manager told the tenants they would have to remove them as they did not comply with the building code. The tenants have complied. The landlord testified there is side door which could give the tenant access. The tenant testified that door is an exit only door. The landlord agreed to change the door so that it could be used by the tenant for entry and exit. **I ordered that the landlord change the side door so that it would be used by the tenant for entry and exit thus enabling the tenant access for her scooter.**

Application for an order the landlord provide the tenant with a copy of the inspection report carried out prior to the tenancy?

**I ordered that the landlord provide the tenant with a copy of the Condition Inspection Report that was carried out before the tenant's took possession within 48 hours.**

Application for an order for the repair of a leaking outside tap and the repair or the balcony:

**I ordered that that the landlord repair a leaking tap and balcony within 30 days of this order.** I am satisfied the leaking tap and problems with the balcony have put the landlord's property at risk and has reduced the enjoyment of the rental unit..

Application for an order that the tenants are entitled to an order for the reduction of rent?

The tenants seek a reduction of rent of \$50 per month commencing the start of the tenancy because of the disruption caused by the malfunctioning intercom system. The

tenant lives close to the front door of the building. She testified she is often disturbed by guests of other tenants trying to get the attention of the other tenants in order for them to gain access. After considering all of the evidence **I determined the tenant is entitled to compensation in the sum of \$25 per month for 4 months ending May 31, 2015 for a total of \$100 such sum may be deducted from future rent.** I reduced from what was claimed as the tenant failed to file an Application for Dispute Resolution in a timely manner seeking this relief and has thus failed to mitigate her loss. I determined 4 months is appropriate in the circumstances. I determined the tenant is entitled to a reduction of rent of \$25 per month commencing June 1, 2015 and for every month thereafter until the intercom is fixed.

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 21, 2015

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Residential Tenancy Branch

