



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Rancho Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OLC, RP

### Introduction

This hearing concerns the tenant's application for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / and an order instructing the landlord to make repairs to the unit, site or property. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The unit which is the subject of this dispute is 1 of what are 13 units located within a 2 storey building constructed in 1942.

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the subject tenancy began approximately 26 years ago. Monthly rent of \$1,075.00 is due and payable in advance on the first day of each month.

In response to the tenant's application a previous hearing was held in a dispute between these parties in February 2014. Pursuant to the decision issued by date of March 2014, the landlord was ordered to perform certain very specific repairs to the unit which were to be completed by "no later than June 30, 2014."

Subsequently, by letter to the landlord dated December 17, 2014, on behalf of the tenant, her advocate set out a 6 point request for further work to be undertaken in the unit. In the absence of the tenant's satisfaction with the landlord's response, the tenant ultimately filed an application for dispute resolution on August 14, 2015. In summary, the 2 principal concerns at issue are as follows:

- 1) There are 5 different sets / pairs of windows in the unit which are designed to be opened and closed. The tenant claims that these windows are variously either difficult to open or difficult to close, and that the area surrounding the windows is insufficiently sealed to prevent drafts. It is understood that these are original windows (approximately 73 years old), and the tenant notes that these same windows were replaced in another unit located within the building.
- 2) While the interior of the unit was repainted last year (2014), the paint in the bathroom has not held up well. Specifically, the bathroom paint is peeling in specific areas on the walls; it is suspected that either the walls were not suitably prepared / primed, and / or the most suitable paint for a bathroom environment was not applied.

Documentary evidence submitted by the tenant includes, but is not limited to, photographs taken within the unit as well as various correspondence sent to the landlord. There is no documentary evidence before me from the landlord. Feelings of mutual animosity are apparent from the conduct of the parties during the hearing.

### Analysis

At the outset, the attention of the parties is drawn to statutory provisions which are particularly relevant to the circumstances of this dispute.

Section 32 of the Act addresses **Landlord and tenant obligations to repair and maintain**, in part:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(5) A landlord's obligations under subsection (1)(a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Further, Residential Tenancy Policy Guideline # 1 speaks to “Landlord & Tenant – Responsibility for Residential Premises,” and provides in part:

### **WINDOWS**

1. At the beginning of the tenancy the landlord is expected to provide the tenant with clean windows, in a reasonable state of repair.

### **PAINTING**

The landlord is responsible for painting the interior of the rental unit at reasonable intervals.

Based on the documentary evidence and testimony of the parties, the 2 principal aspects of the tenant’s application and my related findings are set out below.

### **WINDOWS**

I find that the 5 subject windows located in the unit fall short of meeting the threshold of what is a reasonable state of repair. In view of the age of the windows, and in consideration of the fact that identical windows were replaced within another unit located in the building, the landlord is **ORDERED** to replace the 5 subject windows by **January 31, 2016**.

### **PAINTING**

I find the state of the bathroom paint fails to meet the threshold of what is a suitable state of repair for a job completed so recently. Accordingly, the landlord is **ORDERED** to repaint the bathroom, taking care to ensure that wall surfaces are adequately prepared / primed, and that paint suitable to a bathroom environment is applied. The landlord is **ORDERED** to complete this job by **December 31, 2015**.

Going forward, the attention of the parties is also drawn to section 28 of the Act which addresses **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.

Further, section 29 of the Act addresses **Landlord's right to enter rental unit restricted**, and provides in part:

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;

### Conclusion

Pursuant to section 62 of the Act, **ORDERS** have been issued against 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: November 04, 2015

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Residential Tenancy Branch

