



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MT, OLC, FF, O

### Introduction

This hearing dealt with a tenant's application to cancel a Notice to End Tenancy and for orders for the landlords to comply with the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

1. Did the landlords serve the tenant with a valid Notice to End Tenancy?
2. Is it necessary or appropriate to issue orders to the landlords?

### Background and Evidence

The tenancy commenced under a verbal agreement with the former landlords. The property was sold to the current landlords in September 2015. The tenant occupies a basement suite in the house. Rent is due on the 1<sup>st</sup> day of every month.

On September 25, 2015 the landlords gave the tenant a letter in an attempt to end the tenancy effective at the end of October 2015. The tenant seeks to cancel the notice given on September 25, 2015. The landlords did not give the tenant a Notice to End Tenancy in the approved form.

The tenant seeks orders for the landlords to comply with her right to quiet enjoyment. The tenant stated that the landlords have been renovating the property and that several people have been at the house until late into the evening. The tenant stated that the landlords have also requested entry into the rental unit so as to search for gas, water and electrical connections on multiple occasions.

The landlords stated that they have a large family and they acknowledged that they have been making repairs and improvements to the property. The landlords acknowledged that they have been experiencing difficulties with the electrical service in relation to the hot tub and they do need to gain entry to the rental unit as the main breaker panel is in the basement suite.

The tenant submitted that a portion of the garden that she had been provided use of by the former landlord was damaged when the current landlord's painter cleaned paint trays in the garden. The tenant acknowledged that she assumed the former landlords had informed the current landlords of their agreement. The landlords stated that they had not been informed of many aspects of this tenancy by the former landlord.

The tenant stated that the landlords had not given her rent receipt for September 2015; however, I determined that it was her former landlord that had collected rent from her for September 2015 and that pro-rated rent was transferred to the landlords when the house sale was finalized. Accordingly, I informed the tenant that the current landlords were not required to give the tenant a rent receipt for September 2015 but that obligation rested with the former landlords when they collected rent from her. I also noted that the tenant's documentary evidence showed that the current landlords had given the tenant a receipt for October 2015 rent. As for November 2015 rent I heard that the tenant has not yet paid the rent. The tenant was informed of her obligation to pay rent when due.

I also heard that the landlords had not provided the tenant with a service address in writing. The landlords were informed of their obligation to do so under the Act.

In hearing from the parties, it was evident that the parties are not familiar with their respective rights and obligations under the Act. The parties were strongly encouraged to become familiar so as to improve the relationship they have for the remainder of this tenancy.

### Analysis

Upon consideration of everything presented to me, I provide the following findings and reasons.

When a landlord wishes to end a tenancy, section 52 of the Act provides that the landlord must serve the tenant with the applicable Notice to End Tenancy in the approved form. The approved forms are available from the Residential Tenancy Branch, including its web-site. The letter given to the tenant on September 25, 2015 is

not a notice to end tenancy in the approved form and I find it to be of no effect. As such, the tenancy continues at this time.

Under the Act, a tenant has the right to quiet enjoyment, as provided under section 28 of the Act. Information concerning a tenant's right to quiet enjoyment is also provided in Residential Tenancy Policy Guideline 6: *Right to Quiet Enjoyment*. Both parties would be well served to familiarize themselves with this information. Having heard the landlords have been renovating the property I accept that the tenant has been disturbed by sounds associated to renovation and multiple entries into her unit. Therefore, I order the landlords to comply with sections 28 and 29 of the Act for the remainder of this tenancy. I have reproduced sections 28 and 29 for the parties' further reference:

### **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.

### **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).

Under the Act, a tenant has the right to reasonable and lawful use of common areas. As I informed the tenant during the hearing, she would be well served to not assume the former landlords informed the current landlords of all of their agreements and that she inform the current landlords as to areas that the former landlords had permitted her to use exclusively.

Under the Act, a landlord is required to give a tenant a receipt for cash payments received from the tenant. I am satisfied the landlord had given the tenant a rent receipt for a cash payment in October 2015; therefore, I am satisfied the landlord has complied with this requirement already.

Under the Act, a landlord is required to provide the tenant with a service address in writing. The Act also requires the landlord provide the tenant with a name and telephone number of the person to contact in the case of an emergency, in writing, or by posting the information in a conspicuous place. Without delay, I order the landlords to provide the tenant with a service address; as well as, a name and a telephone number of a person to contact in case of an emergency, in writing.

I find the tenant's application to have some merit and I award her recovery of the filing fee she paid for this application. The tenant is provided a Monetary Order in the amount of \$50.00. The Monetary Order may be satisfied by payment of \$50.00 from the landlords or the tenant authorized to deduct \$50.00 from a subsequent month's rent.

### Conclusion

The letter dated September 25, 2015 is not a Notice to End Tenancy in the approved form and is of no effect. Accordingly, the tenancy continues at this time.

I have issued orders to the landlords to comply with section 28 and 29 of the Act. I have also ordered the landlords to provide a service address and emergency contact information to the tenant in writing.

The tenant was awarded recovery of the filing fee and was provided a Monetary order in the amount of \$50.00. If the landlords do not pay \$50.00 to the tenant, the tenant is authorized to deduct \$50.00 from rent payable in satisfaction of this award.

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 10, 2015

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Residential Tenancy Branch

