



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC, LAT, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order that the landlords comply with the *Act*, regulation or tenancy agreement; for an order permitting the tenant to change the locks to the rental unit; and to recover the filing fee from the landlords for the cost of the application.

The tenant and both named landlords attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other respecting the testimony and evidence provided, all of which has been reviewed and is considered in this Decision. No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

- Has the tenant established that the landlords should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically with respect to entering the rental unit?
- Should the tenant be permitted to change the locks to the rental unit?

### Background and Evidence

**The tenant** testified that this month-to-month tenancy began on August 1, 2011 and the tenant still resides in the rental unit. Rent in the amount of \$787.00 per month is currently payable on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$375.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The parties entered into a written tenancy agreement, however a copy has not been provided for this hearing. The rental unit is a studio suite.

The tenant further testified that on February 29, 2016 at about 12:45 a.m. the tenant went to the store and returned within about 10 minutes or so, to find that the remote controls in his unit had been manipulated by someone, and someone had obviously been inside the rental unit. The tenant called the building manager but his phone was turned off, and a note on the building manager's door said to not knock. The next morning the tenant called the property manager and the tenant likely sounded distressed, but the property manager didn't want to hear about it and didn't believe the tenant. The property manager told the tenant to not raise his voice and she hung up the phone. The tenant sent emails asking the property manager to find out how and why it happened, and she replied that she would, but never did. Copies of emails have been provided.

The tenant ran into the building manager and asked if the property manager had talked to him. The building manager confirmed that she had and said he was concerned about his job. However, the tenant hadn't heard back from the property manager so he called her again, and the property manager recorded the call. The tenant still doesn't know what discussion the property manager and building manager had. One of the emails provided from the property manager states that she had spoken to the building manager who advised that the building manager said that the parties had spoken and the issue had been resolved, but it hadn't. One of them is lying.

**The first landlord** (CS) testified that she is the property manager of the rental building. The tenant had called her about someone entering the rental unit and asked the landlord to call the resident manager, and she confirmed that she would. The tenant was yelling at the landlord, called again saying that he had tried without success to contact the building manager. The landlord called the building manager the next day who said the issue was resolved with the tenant. The tenant kept calling the landlord, swearing and hung up on the landlord. A copy of a transcript of the phone call has been provided, showing the character of the tenant and how he talks to people.

**The second landlord** (JJ) testified that he is the building manager, and on that date, at about 2:00 a.m. there was very loud music coming from the tenant's apartment. The landlord tried banging on the door, with no response, and tried to call the tenant several times. The landlord went out of the building to find the tenant and still couldn't locate him. Other tenants were in the hallway screaming at the landlord to deal with it, so the landlord went into the rental unit to turn off the music and went back to his own unit. There were a number of remote controls, and the landlord had to find the correct one to turn down the music.

About 8 months prior to this incident, the tenant's music was loud and at that time the landlord was unable to locate the tenant. He found the tenant in the building and the

tenant went into his rental unit and turned down the music. He was apologetic and gave the landlord verbal permission to go into the rental unit to deal with it if it happened again and said it was due to a technical problem with his remote controls.

### Analysis

The *Residential Tenancy Act* is clear with respect to a landlord entering a rental unit:

#### **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).

In this case, the landlord admits entering the rental unit, testifying that the tenant told him that if the music was blaring and the tenant was not there, the landlord had permission to enter. The tenant denies that, however, the *Act* states that the tenant must give permission at the time of the entry, or not more than 30 days before the entry, not 8 months prior. Therefore, I find that the landlord has failed to comply with the *Act*, and the tenant's application for an order that the landlord comply is justified.

The tenant also testified that he had only been out of the rental unit for about 10 or 12 minutes when the incident took place. The landlord testified that he turned the music down after finding the correct remote control and left. It is clear that the landlord was in the rental unit for the specific purpose of turning down the music in the rental unit late at

night due to disturbances of other tenants. Although that is not sanctioned by the *Act*, I am not satisfied that it is an on-going concern, and I decline to order that the tenant be permitted to change the locks to the rental unit.

Since the tenant has been partially successful with the application, the tenant is entitled to recovery of the \$100.00 filing fee. I order that the tenant be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

### Conclusion

For the reasons set out above, the tenant's application for an order permitting the tenant to change the locks to the rental unit is hereby dismissed.

I hereby order the landlord to comply with Section 29 of the *Residential Tenancy Act* as set out above.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent for a future month by that amount as recovery, or may otherwise recover it.

This order is final and binding and may be enforced.

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 08, 2016

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Residential Tenancy Branch