



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LAT, RR

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for an Order to authorize the tenant to change the locks of the rental unit and to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

The tenant and the landlord ML attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch. The landlord agreed she had not served her evidence upon the tenant; however, upon perusal of this evidence I find it is much the same as the evidence provided by the tenant and therefore it will not prejudice the tenant by allowing this evidence to be considered. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the tenant entitled to an Order to permit the tenant to change the locks to the rental unit?
- Is the tenant permitted to reduce rent for repairs, services or facilities agreed upon but not provided?

### Background and Evidence

The parties agreed that this month to month tenancy started on December 01, 2015. Rent for this unit is \$650.00 per month due on the 1<sup>st</sup> of each month.

The tenant testified that her tenancy started with the previous owner of the property and these landlords purchased the property and became her landlord in January, 2016. The tenant testified that while she was out of town the landlord sent her a text message and asked if they could check the fire extinguisher in the tenant's unit. The tenant testified that her daughter texted back "OK" but the landlords did not provide 24 hours written notice before they entered the unit and this was not an emergency situation.

The tenant testified that when she moved into the unit there was only a small bar fridge. This was not suitable for her families use as it would only hold the equivalent of two jugs of milk. The original landlord agreed that the tenant could have his fridge located in his barn; however, that landlord had a stroke before he could bring it to the tenant and was then hospitalized for three weeks. When he returned home the property was sold and the tenant has still had to manage with the small fridge.

The tenant testified that she asked these landlords about getting the fridge from the barn but was told that they wanted to use it. The tenant seeks an Order for the landlord to provide her with a fridge that is suitable for her family needs and seeks a rent reduction for the period she did not have a suitable fridge.

The landlord attending testified that when they entered the tenant's unit to check the fire extinguishers it was a misunderstanding. They thought the tenant had given them permission to enter the unit when she responded to their text and said "OK". The landlord testified that she is now aware that she must provide 24 hours written notice before entering the tenant's unit.

The landlord testified that they did offer the tenant the opportunity to swap fridges with her boyfriend who lived in the cabin next door and who has a larger fridge. The landlords and the tenant's boyfriend had a hearing today in which the landlord obtained an Order of Possession for his rental unit. As soon as he vacates his unit in accordance with that Order the tenant can then have his fridge and hers can go into the other cabin. The landlords will ensure the fridges are swapped over as soon as he moves out. The landlord testified that they have no knowledge of any arrangement made between the previous landlord and the tenant concerning the fridge in the barn and the tenancy agreement states that the tenant has rented the unit "as is".

### Analysis

After careful consideration of the testimony and documentary evidence before me I find the landlord did enter the tenant's unit without providing 24 hours written notice; however, as this occurred on only one occasion then I am not satisfied that this would warrant an Order for the tenant to change the locks to her rental unit. I do; however, caution the landlords to ensure that 24 hours written notice is provided and served upon the tenant allowing extra time dependent on the method of service pursuant to s. 29 of the Act which states:

### ***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).*

With regard to the tenant's application for a rent reduction, It is clear on the tenancy agreement signed by the tenant that she has accepted the dwelling "as is" having already inspected it; however, this does not allow the landlords to circumnavigate the Act and the landlords must still be prepared to carry out maintenance of the unit as required. With this in mind I find the fridge in the unit at that time it was rented was a small fridge and there is no provision under the Act for me to order the landlord to provide the tenant with a larger fridge. The tenant testified that she had a verbal agreement with the previous landlord that he would replace her fridge with a larger fridge from the barn; however, this agreement was not in writing and the new owners were not made aware of this agreement and it is therefore unenforceable without corroborating evidence that it was made between the tenant and the previous landlord. Consequently I am not prepared to allow the tenant to reduce her rent for a service or facility agreed upon but not provided.

The landlord has agreed at this hearing that as soon as the other tenant vacates his rental unit the landlords will swop his larger fridge over for the tenant's smaller fridge. As

the landlord agreed this at the hearing the landlord is bound by this agreement and no further orders will be made concerning this matter.

### Conclusion

The landlord has been cautioned to ensure they comply with s. 29 of the *Act* regarding Notice of entry. The tenants application to change the locks to the rental unit is dismissed.

The landlord will swop the tenant's fridge for the larger fridge from the other unit as soon as it becomes vacant as agreed by the landlord at the hearing. No Orders are required in this matter. The tenants application to reduce rent is dismissed

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: September 01, 2016

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Residential Tenancy Branch