



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COMMUNITY BUILDERS GROUP  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute codes OLC MNDC

### Introduction

This hearing was convened in response to an application under the *Residential Tenancy Act* (the Act) by the tenant seeking an Order for the landlord to comply with the Act. The tenant also seeks monetary compensation for loss of quiet enjoyment. Both parties attended all hearing dates ascribed to this proceeding. The tenant and their legal advocate as well as the landlord's representative appeared in the conference calls and each participated in the hearing via their submissions, document evidence and their testimony. Both parties acknowledged receiving all evidence of the other as submitted.

#### *Preliminary matters*

In the landlord's determination the living accommodation is transitional housing. The proceeding occurred over three dates, primarily to allow the landlord to provide evidence in concert with their assertion the Act does not apply to the tenant's living accommodation. The landlord was given opportunity to address the recent changes to legislation (Residential Tenancy Regulation) and Residential Tenancy Policy Guidelines providing definition and meaning of "transitional Housing": for the purpose of determining jurisdiction pursuant to Section 4 of the Act.

Both parties were given opportunity to address the matter of jurisdiction in the context of **Section 1 of Residential Tenancy Regulation**, which states as follows;

### **Definitions**

- 1 (1) In this regulation, "**Act**" means the *Residential Tenancy Act*, S.B.C. 2002, c. 78.
- (2) For the purposes of section 4 (f) of the Act [*what the Act does not apply to*], "**transitional housing**" means living accommodation that is provided
  - (a) on a temporary basis,
  - (b) by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and
  - (c) together with programs intended to assist tenants to become better able to live independently.

Both parties were apprised of and were equally guided by **Residential Tenancy Policy Guideline 46** informing the parties the living accommodation must meet all of the criteria in the definition of “transitional housing” under Section 1 of the Regulation in order to be excluded from jurisdictional consideration pursuant to Section 4 of the Act, even if a transitional housing agreement has been signed.

The parties provided the tenant has been residing in their accommodation for 2 years. Neither party presented evidence of an end date to the residency. The landlord provided evidence they offer residents various supports which they claim are intended to assist independence. The landlord advanced 2 letters from the City of Vancouver addressing the City’s involvement with the residential property and the landlord by way of agreements as well as their support for the intended purpose of the living accommodation. The City’s documents state the City owns the residential property of the living accommodation, which in turn is leased to the landlord of this matter. The City’s documents also state they fund the program expenses of an agency that partners with the City and the landlord, to provide support services to the residents of the residential property.

I found the tenant’s 2 year residency combined with the absence of an end date does not reasonably meet the definition of ‘temporary’. I accepted that the landlord has certain agreement(s) and a lease with the City. However, I found that the landlord failed to provide sufficient evidence that as landlord they are receiving *funding* from the City for the purpose of providing the living accommodation. I determined the landlord’s living accommodation does not meet the test established by Section 1 of the Regulation and as such that its living accommodation is not exempt from the Residential Tenancy Act. Therefore the tenant’s application advanced on the merits.

**Issue(s) to be decided**

Should the landlord be ordered to comply with the Act, regulation or tenancy agreement?

Is the tenant entitled to the monetary amount claimed?

**Background and evidence**

The undisputed relevant evidence in this matter is as follows. This tenancy started in January 2015. The residential property is a previous hotel structure. The living accommodation is a room with self-contained washroom. The tenant pays monthly rent of \$375.00 and at the outset of the tenancy the landlord collected a security deposit.

The tenant claims the landlord has compromised their quiet enjoyment by imposing rules and expectations contrary to the Act. The tenant claims the landlord has repeatedly “harassed” them and their visitors or guests by imposing restrictions on their visits to the tenant’s rental unit such as having a guest after “visiting hours” of 10:00 p.m. and the landlord’s prohibition on overnight guests and unregistered guests. The tenant and landlord provided evidence of examples which the parties refer to as incident reports (IR), in which the tenant is admonished for having guests after visiting hours and an overnight guest. In one IR the tenant is informed that if they do not comply with the landlord’s rules they will experience a “time out at a shelter”. The tenant claims the landlord’s monitoring and “harassment respecting guests and their activities and the resulting “threats” of eviction are disturbing to their quiet enjoyment.

The tenant also claims the landlord performs periodic inspections of their rental unit to which the tenant objects as some of the landlord’s demands are unreasonable.

The landlord testified they have always considered their living accommodation as *transitional housing* and in their determination were exempt from the Act and have acted accordingly by establishing policies and rules to orderly operate the housing. The landlord provided document evidence they provide supportive housing through services offered to their residents to assist them in living independently; and, have crafted rules and expectations for all residents of the residential property in alignment with what they consider reasonable in order to meet their mandate and operating agreement. The landlord advanced that the tenant had signed a ‘Safe and Supportive Housing agreement’ with expectations on residents for the benefit and security of all residents. However, subsequent to the tenant filing for dispute resolution, the landlord’s IR evidence is that the tenant permitted 5 intoxicated individuals of which 3 were “under age” all found sleeping in the “common room” of the residential property. The landlord’s IR also highlighted the individuals were verbally abusive toward the landlord’s staff.

### **Analysis**

*The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).*

I have carefully considered and reflected on the relevant evidence in this matter. I find the Act and respective Regulation Schedule address occupants and guests. There is an obligation on the landlord to allow a tenant to have guests and not to deny having a guest under reasonable circumstances, and not impose unreasonable conditions respecting guests. I have been presented evidence clearly indicating the landlord has denied reasonable conditions respecting guests of the tenant. I find that the landlord has attempted by their repeated reminders to enforce limiting conditions pertaining to the tenant having guests, but specifically overnight guests. However, this is not to state that the Act extends a right to a tenant to have overnight guests other than in their rental unit or that the Act prevents a landlord from *reasonably* restricting a person or persons permitted access by a tenant onto residential property pursuant to Section 30 of the Act.

In their acknowledgement that their conduct toward the tenant has not been guided by the Act I find the landlord has knowingly abridged certain rights of the tenant under the Act and the situation must attract remedy. As a result,

**I Order** the landlord to Comply with the **Residential Tenancy Act**, and specifically,

**I Order** the landlord to comply with **Section 30(1)** of the Act.

The tenant is collaterally cautioned to comply. Needless to say, the Act imposes obligations and, responsibilities on both parties. And, the Act extends rights and remedies to both parties, which previously may not have been contemplated or perceived available.

In respect to the tenant's claim for monetary compensation I find that despite the landlord's intentions they have periodically abridged the tenant's rights and compromised the tenant's quiet enjoyment. As a result, I grant the tenant set compensation equivalent to one month's rent under the tenancy agreement, for each year of their tenancy, in the sum of \$750.00 (\$375 x 2 = \$750.00).

The tenant is given a **Monetary Order** under Section 67 of the Act for the amount of **\$750.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

The tenant can choose to reduce this amount from future rent payments, or collect on the monetary Order through the Small Claims Court.

### **Conclusion**

The tenant's application is granted.

**This Decision is final and binding on both parties.**

*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: January 30, 2017

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Residential Tenancy Branch

