



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

O, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for "other" and to recover the fee for filing this Application for Dispute Resolution. At the hearing the Landlord withdrew the application to recover the filing fee.

The Agent for the Landlord stated that on March 14, 2018 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted with the Application were sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On March 29, 2018 the Tenant submitted 34 pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord's business office on March 29, 2018. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On April 03, 2018 the Tenant submitted 2 pages of evidence to the Residential Tenancy Branch. The Tenant stated that she thinks the evidence was served to the Landlord by her legal advocate. The Regional Operations Manager stated that this evidence was not received by the Landlord. As the Tenant is not certain how this evidence was served to the Landlord and the Landlord did not acknowledge receiving the evidence, it was not accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

All of the evidence accepted for these proceedings has been reviewed, but is only referenced in this written decision if it is relevant to my decision.

### Preliminary Matter

The Tenant requested an adjournment, in part, on the basis that she underwent surgery on April 05, 2018; she is currently in a lot of pain; and she is experiencing “voiding issues”.

The Tenant requested an adjournment, in part, because she would be unable to receive legal representation until after April 23, 2018. She stated that she was being assisted by a law student.

The Agent for the Landlord stated that an adjournment would present an extreme hardship for the Landlord as this issue relates to repairs being completed at the residential complex and the contractors are scheduled to leave the site on April 23, 2018. She stated that the repairs to the rental unit have been complicated by the Tenant’s failure to accommodate repairs and that if they do not gain access to the rental unit by April 23, 2018 repairs to this rental unit will not be completed.

The Tenant was advised that her request for an adjournment for medical reasons was denied on the basis that she appeared capable of participating during the first 20 minutes of the hearing. I note that during the remaining 18 minutes of the hearing the Tenant did not in any way appear to be hampered by her medical condition.

The Tenant was advised that her request for an adjournment for the purposes of obtaining legal representation was denied. The request for an adjournment for time to obtain legal representation was denied, in part, because the issue in dispute is not complicated and I know of no legal argument that would allow a tenant to prevent a landlord from making repairs and improvements to the landlord’s property, providing proper notice is given to the tenant.

The request for an adjournment for time to obtain legal representation was denied, in part, because I found it highly likely that the parties would be able to find a resolution to this dispute without the need for legal representation.

The request for an adjournment was denied, in large part, because I find that the delay would unfairly prejudice the Landlord, given that the contractors were scheduled to leave the site on April 23, 2018 and that an adjournment would result in the Landlord being unable to complete repairs to the rental unit in a reasonable manner.

#### Issue(s) to be Decided

Is there a need to issue an Order granting the Landlord access to the rental unit?

#### Background and Evidence

On March 16, 2017 the Landlord submitted 18 pages of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on March 16, 2017. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The Landlord and the Tenant agree that the Landlord has been making significant renovations at this residential complex and that the Landlord has provided the Tenant with numerous notices of entry regarding those repairs. Copies of several Notices of Entry were submitted in evidence.

The Landlord and the Tenant agree that the Tenant has refused to provide access to her rental unit on several occasions in spite of being served with Notices of Entry.

The Tenant contends that all the renovations in her yard have been completed and that it will only take a ½ hour to complete the work inside her rental unit. The Agent for the Landlord stated that the work in both areas will take considerably longer to complete, although she does not know the exact amount of time as she is not the person completing the repairs.

The Tenant stated that she has refused entry to her rental unit due to her medical condition. She stated that the Notices of Entry are for a wide range of dates and times,

which is very difficult for her. She stated that she needs to know specifically when people will be entering her unit so she can properly prepare for the entry.

The Tenant submitted a letter from a physician, dated March 19, 2018, which indicates the Tenant is currently experiencing a medical condition that makes “it hard for her to plan and predict her activities of daily living”.

At the hearing the Tenant stated that she could accommodate entry into her rental unit on April 20, 2018 between 10:00 a.m. and 4:00 p.m. The Agent for the Landlord stated that the Landlord will make every effort to complete all the repairs in the rental unit during that time period.

The Agent for the Landlord stated that renovations in the Tenant’s yard require pouring of concrete so that will be weather dependent. At the hearing the Tenant stated that she could accommodate repairs to the yard anytime between April 17, 2018 and April 20, 2018 between 9:00 a.m. and 4:00 p.m.

The Tenant stated that she has items on her patio that need to be covered prior to the work being completed and she is physically unable to cover those items. The Agent for the Landlord stated that the Landlord will ensure the items on the Tenant’s patio are covered prior to completing any work in her yard.

The Tenant stated that she would like to be notified of the dates the Landlord will be working in the yard. The Agent for the Landlord stated that will be difficult as the construction company has indicated they do not want to have any direct contact with the Tenant.

### Analysis

Section 32 of the *Residential Tenancy Act (Act)* requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant. On the basis of section 32 of the *Act* I find that Landlord has the right to enter the unit to complete repairs/maintenance that the Landlord believes are necessary.

Section 29(1)(b) of the *Act* gives a landlord the right to enter a rental unit provided that at least 24 hours and not more than 30 days before the entry, the landlord gives the

tenant written notice that of the purpose for entering, which must be reasonable and the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees.

In these circumstances I find that several of the Notices of Entry that were served by the Landlord were not reasonable, given the wide range of times/dates noted on the Notices of Entry. For example, the Notice dated February 08, 2018 indicates that the Landlord will be entering the unit anytime between 8:00 a.m. and 5:00 p.m. on any date between February 12, 2018 and February 17, 2018. Given the Tenant's current medical condition, I find it reasonable for the Landlord to provide her with more accurate times and dates of entry.

Although I recognize it may be more difficult, and perhaps more expensive, for the Landlord to provide the Tenant with more accurate times/dates, I find it to be reasonable given the current health of the Tenant.

As the Tenant stated that she could accommodate entry into her rental unit on April 20, 2018 between 10:00 a.m. and 4:00 p.m., I hereby authorize the Landlord to enter the rental unit during that time to complete any necessary repairs/renovations.

As the Tenant stated that she could accommodate entry into her yard unit between April 17, 2018 and April 20, 2018 between 9:00 a.m. and 4:00 p.m., I hereby authorize the Landlord to enter the Tenant's yard during that time to complete any necessary repairs/renovations.

As the Tenant is currently physically unable to cover the personal items she has on her patio, I hereby order the Landlord to cover those items prior to completing any work in the Tenant's yard.

Given the Tenant's health condition I find that it is reasonable for her to be notified of which day(s) the Landlord will be working in her yard. I therefore direct the Landlord to telephone the Tenant at 9:00 a.m. on April 17, 2018, April 18, 2018, April 19, 2018, and April 20, 2018 if the Landlord intends to enter the Tenant's yard on that date. This telephone contact may be made by an employee of the Landlord if the Landlord does not wish the Tenant to have direct contact with the construction company.

Conclusion

The Landlord has the right to enter the rental unit and the Tenant's yard in accordance with the times, dates, and terms outlined in this decision

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: April 10, 2018

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Residential Tenancy Branch