



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE PARKSVILLE - QUALICUM BEACH REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution made on October 18, 2018 (the "Application"). The Tenant applied for an order that the Landlord comply with the *Residential Tenancy Act* (the "Act"), regulations, and/or the tenancy agreement.

The Tenant attended the hearing on her own behalf. The Landlord was represented at the hearing by V.L. and I.M., agents. All in attendance provided affirmed testimony.

The Tenant testified that Landlord was served with the Application package and documentary evidence by registered mail. On behalf of the landlord, V.L. acknowledged receipt. Further, V.L. testified the Landlord's documentary evidence was served on the Tenant in person. The Tenant acknowledged receipt.

The Tenant and V.L. acknowledged the documentary evidence upon which the parties intended to rely was not served on time in accordance with the Rules of Procedure. However, both the Tenant and V.L. indicated they each had an opportunity to review and consider the evidence, and that they wished to proceed with the hearing. Accordingly, I find the parties were sufficiently served with the above documents for the purposes of the *Act*, pursuant to section 71 of the *Act*.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Tenant entitled to an order that the Landlord comply with the *Act*, regulation, and/or the tenancy agreement?

Background and Evidence

The parties testified that the Tenant rents a manufactured home located on the rental property. The manufactured home is owned by the Landlord. The parties agreed the tenancy began on April 1, 2017, and continues on a month-to-month basis. Rent is due in the amount of \$700.00 per month. The Tenant paid a security deposit in the amount of \$350.00 and a pet damage deposit of \$100.00, which the Landlord holds.

The Tenant requests an order that the Landlord comply with the *Act*, regulation, and/or the tenancy agreement between the parties. Although no specific sections or provisions were referred to by the Tenant, she testified to her belief that V.L. has commenced a “campaign” against her. Three main issues were raised by the Tenant during the hearing. First, the Tenant testified that V.L. has attended the rental property without proper notice on a number of occasions, although dates and times were not provided.

In reply, V.L. testified that a rat problem developed at the rental property. She acknowledged that she attended the rental property (not the individual rental units) to evaluate the problem. At the same time, she confirmed that a pest control company could attend the following day to dig a trench around the rental units and install wire and crushed rock. This would make it more difficult for rats to access the rental units. She testified that all tenants were advised by email that the pest control company would attend the following day to complete the work.

Second, the Tenant testified the Landlord’s agents attended the rental property without notice. She testified that someone did work on her private deck and that the grass area around her rental unit was damaged. The Tenant also testified that mud was splashed onto her rental unit. Although the Tenant submitted copies of photographs, they were in black and white and the images could not be determined with any clarity. The Tenant submitted the Landlord should wash the mud off the exterior of the rental unit.

In reply, V.L. testified that the contractors attended as planned to complete the work. She advised she was unaware of any mud on the Tenant's rental unit and noted the other rental units have not experienced any similar issues with mud as a result of the work. V.L. confirmed the Landlord has plans to wash the exterior of all rental units in the Spring as part of routine maintenance of the rental units.

Third, the Tenant testified she is entitled to a particular parking space in front of her rental unit, which provides her with easier access to the rental unit. The Tenant acknowledged, however, that she does not own a vehicle. The Tenant testified she is often prevented from accessing her rental unit easily when other cars park there.

In reply, V.M. testified that the parking space the Tenant lays claim to is street parking. When a local by-law officer advised that this could not be reserved for the Tenant, the Landlord provided the Tenant with a parking space on an adjacent lot. Although the Tenant acknowledges another parking space was provided, she testified it is not convenient for her.

### Analysis

After careful consideration of the oral and documentary evidence, and on a balance of probabilities, I find:

Section 62(3) of the *Act* states:

*The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.*

[Reproduced as written.]

With respect to the Tenant's request for an order relating to the ability of the Landlord's agents to access the rental property, I find there is insufficient evidence before me to grant the relief sought. Section 29 of the *Act*, which sets out the circumstances under which a landlord can access a rental unit, provides that notice must be given unless an emergency exists. However, the section applies to *rental units*. I find there is insufficient evidence before me that the Tenant had exclusive use of anything other than the rental unit. Accordingly, the Landlord had no obligation to advise that maintenance

*near* the Tenant's rental unit would commence. To conclude otherwise would place an unreasonable restriction on a landlord's ability and obligation to maintain rental property in accordance with section 32 of the *Act*, particularly in a multi-unit dwelling. This aspect of the Application is dismissed.

With respect to the Tenant's request for an order relating to the parking space, I find there is insufficient evidence before me to grant the relief sought. Further, I find that the parking space the Tenant lays claim to is located on the street and that the Landlord has no right to assign it to the Tenant. When the Landlord learned this space would no longer be available to the Tenant, the Landlord assigned a space in an adjacent lot, although I acknowledge the Tenant's testimony confirming it is not as convenient for her. I also note the undisputed testimony of those in attendance confirming the Tenant does not own a car. Therefore, it appears the dispute is over access to the rental unit, not whether or not the Landlord has provided a parking space under the terms of the tenancy agreement, which it has. This aspect of the Application is dismissed.

### Conclusion

The Tenant's Application is dismissed, without leave to reapply.

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 29, 2018

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Residential Tenancy Branch