



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TLA ENTERPRISES L.T.D.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPT, OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for an order of possession and to have the landlord comply with the Act.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Issues to be Decided

Should the tenant be granted an order of possession?  
Should the landlord be ordered to comply with the Act?

### Background and Evidence

The tenancy began in 2017. The tenant stated that rent is \$480.00 per month. The landlord's agent insisted rent is \$450.00 per month. As I find it not prejudicial to the tenant, I confirm rent of \$450.00 is payable on the 1<sup>st</sup> of each month.

The tenant testified that they were at a previous hearing on January 3, 2019, in which the landlord's notice to end tenancy for cause, was cancelled and the tenancy was to continue.

The tenant testified that they were not at home for the last week of December 2018, and when they returned home of January 10, 2019, they were locked out of the rental unit. The tenant stated that they had paid rent for January 2019, in full.

The landlord's agent testified that on January 8, 2019, they received complaints from other occupants about the tenant, screaming, banging on the walls.

The landlord's agent testified that they went to the tenant's rental unit; however, the tenant was not there. The agent stated that the tenant's door was loose and not completely secured. The agent stated they access the unit and found the tenant had broken a window and the hot water pipe.

The landlord's agent testified that the landlord went back to the rental unit on January 10, 2019, and the tenant was not there. The agent stated they decided to change the lock for safety and security purpose.

The landlord's agent testified that they went back to the unit on February 2, 2019 and the tenant was not present. The agent stated that as a result they made the repairs to the window, cleaned, and repainted the rental unit. The agent confirmed they did not have an order of possession.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

#### **Order of possession for the tenant**

**54** (1) A tenant who has entered into a tenancy agreement with a landlord may request an order of possession of the rental unit by making an application for dispute resolution.

(2) The director may grant an order of possession to a tenant under this section before or after the date on which the tenant is entitled to occupy the rental unit under the tenancy agreement, and the order is effective on the date specified by the director.

(3) The date specified under subsection (2) may not be earlier than the date the tenant is entitled to occupy the rental unit.

The parties were at a previous hearing on January 3, 2018 and the Arbitrator at that hearing, cancelled a notice to end tenancy for cause, and ordered the tenancy to continue.

On January 10, 2019, the landlord's agent confirmed they did not have an order of possession when they locked the tenant out of the rental unit. The agent stated this was due to safety and security issues.

I find the landlord has breached the Act, as they had no authority under the Act to lock the tenant out of the rental unit. Further, the photographs submitted in evidence by the landlord do not support there was any significant damage to the rental unit.

Therefore, I Order the landlord to comply with the Act and give access to the rental unit to the tenant.

I find the tenant is entitled to an order of possession of the rental unit. **I AUTHORIZE AND COMMAND YOU, TLA ENTERPRISES L.T.D, the landlord**, to deliver full and peaceable possession of the rental unit to the tenant, **immediately**.

**Further, I find once the tenant has the rental unit in their possession, that rent for March 2019, will be calculated at a prorated amount of \$14.51 per day, for the balance of the month.** As an example if the tenant has possession today, March 11, 2019, the tenant would be required to pay for 21 days, as that are the remaining number of days for the month of March 2019, that amount would equal rent due of \$304.73.

**The tenant must pay** the full amount of prorated rent at the time they receive possession of the rental unit. Should the tenant not pay the prorated amount of rent when they are given possession of the rental unit. The landlord is at liberty to issue a notice to end tenancy, pursuant to section 46 of the Act.

Further, rent will continue at the rate of \$450.00, per month, payable on the first of each month commencing April 1, 2019.

#### Conclusion

The tenant's application for an order of possession is granted.

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: March 11, 2019

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Residential Tenancy Branch