



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, OLC, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Counsel for the landlord, the landlord's manager and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agree that the landlord was served with the tenant's application for dispute resolution via registered mail. I find that the landlord was served with the tenant's application for dispute resolution in accordance with section 89 of the *Act*.

### Preliminary Issue- Severance

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the tenant's application for an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement is

not sufficiently related to the tenant's monetary claim to warrant that they be heard together. The parties were given a priority hearing date in order to address the tenant's application for an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement.

The tenant's other claim is unrelated in that the basis for it rests largely on facts not germane to the question of whether there are facts which establish the grounds for an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement. I exercise my discretion to dismiss the tenant's monetary claim with leave to reapply.

### Issues to be Decided

1. Is the tenant entitled to an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62 of the *Act*?
2. Is the tenant entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on July 1, 2006 and is currently ongoing. A written tenancy agreement was signed by both parties and a copy was submitted for this application. The subject rental property is an apartment in an apartment building.

The tenant testified that the landlord is breaching section 28 of the *Act* by invading the privacy of himself and other tenants by installing security cameras in hallways which prominently feature suite doors rather than entry and exit points. The tenant entered into evidence a screen shot of the view from all of the security cameras dated November 29, 2017. The cameras are located in common areas such as hallways and entrance and exits. The front doors to some tenants' rental properties are visible.

The tenant testified that the security cameras were installed in 2017 without the tenants of the subject rental building being consulted or informed. The tenant entered into evidence five letters of complaint from other tenants alleging that the security cameras breach the tenants' right to quiet enjoyment under section 28 of the *Act*.

Counsel for the landlord submitted that in June of 2018, in response to the tenant's application for dispute resolution, the landlord had digital blocks added to the recorded security footage to safeguard the tenants right to reasonable privacy under the *Act*. The digital blocks appear as black rectangles on the security footage and are placed over the front doors to each unit in the subject rental building. The landlord entered into evidence a screen shot of the of the view from all of the security cameras dated June 10, 2019. The images show that the doors viewable in the 2017 screen shot are not visible as large black rectangles block the view of all tenant doors.

Counsel for the landlord testified that the landlord does not have any recordings prior to the insertion of the digital blocks as the security system writes over the recorded data every 2 plus weeks, depending on the volume of data recorded. Counsel submitted that the security cameras were installed for the safety and security of the tenants and that the landlord has no desire to record specific tenants.

Both parties agree that the tenant has been putting tape over the security cameras. The tenant testified that he feels that the landlord is harassing him because the landlord continues to remove the tape he puts on the security camera and has threatened to call the police due to the above behaviour. The tenant testified that he believes the landlord just wants to evict long term tenants so that increased rents can be obtained.

### Analysis

Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

Residential Policy Guideline 6 states that a landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

In determining whether a breach of quiet enjoyment has occurred, it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises.

Based on the submissions of counsel for the landlord and the snapshot of the 2019 digital recording entered into evidence by the landlord, I find that the security camera recordings are equipped with digital blocks which block out the front doors of the tenants residing in the subject rental building.

I find that security cameras at the subject rental building are situated in common areas and do not capture footage from inside the subject rental units. I find that it is reasonable for the landlord to have installed security cameras at the subject rental building in common areas. I find that the digital blocks provide the tenants with reasonable privacy while still allowing the landlord to provide security to the subject rental building. Based on the above, I find that the security cameras do not cause a substantial interference with the tenant's ordinary and lawful enjoyment of the premises.

I find that informing the tenant that the landlord may call the police if he continues to tape the security cameras and removing the tenant's tape from the security cameras does not constitute harassment.

I find that the tenant has failed to prove, on a balance of probabilities, that the landlord has breached section 28 of the *Act*. I therefore dismiss the tenant's application without leave to reapply.

As the tenant was not successful in his application I find that he is not entitled to recover the \$100.00 filing fee from the landlord, pursuant to section 72 of the *Act*.

### 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: July 02, 2019

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Residential Tenancy Branch