



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VANCOUVER NATIVE HOUSING  
SOCIETY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, MNDCT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on May 6, 2019, (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord comply with the Act; and
- a monetary order for damage or compensation.

The Tenant, the Tenant's witness E.R., as well as the Landlord's Agent S.C. attended the hearing at the appointed date and time, and provided affirmed testimony.

The Tenant testified that he served his Application and documentary evidence package to the Landlord by dropping it off in person to the main office shortly after making his Application on May 6, 2019. S.C. confirmed receipt on May 11, 2019. S.C. testified that she served the Tenant with the Landlord's documentary evidence by posting it to the Tenant's door on June 3, 4, and 5, 2019. The Tenant confirmed receipt of each package. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord comply with the regulations, tenancy agreement or the *Act*, pursuant to Section 62 of the *Act*?
2. Is the Tenant entitled to a monetary order for compensation, pursuant to Section 67 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on January 1, 2015. Currently, the Tenant pays rent in the amount of \$658.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$391.50 which the Landlord continues to hold.

The Tenant testified that he is seeking compensation in the amount of \$5,000.00 as well as an order that the Landlord comply with the *Act*. The Tenant stated that both his claims relate to his loss of quiet enjoyment relating to incidents that have occurred in the rental building, which he feels the Landlord has not done enough to address.

The Tenant referred to several incident reports which he has submitted to the Landlord. The Tenant stated that the majority of his concerns arise out of people who do not reside in the building trying to gain entry into the building.

The Tenant stated that on June 3, 2019 he was contacted by another occupant in the building regarding concerns that someone was trying to break into her rental unit. The Tenant stated that he attended to assist; however, the suspect had already left the area. The Tenant stated that he reported the incident to the Police after he patrolled the building.

The Tenant also referred to an incident which occurred on June 2, 2019 in which two individuals approached his door, asking to be let through to gain access to the building in exchange for \$100.00. The Tenant stated he is frequently approached by people who are interested in gaining entry into the building. The Tenant stated that he feels as though these individuals are undesirable and are unwanted in the building.

On May 18, 2019 the Tenant stated that there were people outside of his suite screaming up to the occupant who resides above the Tenant to try and get his attention. The Tenant stated that this occurred in the late hours of the evening, waking him up.

The Tenant expressed that he has general concerns regarding who can gain entry to the building, as well as a lack of security presence which may deter further incidents from occurring. The Tenant stated that he had to deal with these situations on his own; however, does not feel as though it is his responsibility to do so. Furthermore, as a result of his involvement, the Tenant stated that he feels as though he is being discriminated against by some of the other occupants in the building for calling the Police.

The Tenant stated that the Landlord should employ a security guard who patrols the rental building 24 hours a day, rather than the intermittent patrols which are currently taking place.

S.C. stated that they have addressed the concerns that the Tenant has brought forward, which are within their control; however, S.C. stated that the Tenant seems to find ways to become involved in other occupant's issues which do not concern him. Furthermore, S.C. stated that should incidents arise after office hours, the Tenant has been directed to contact the after-hours security services for assistance. S.C. stated that the Tenant has not made use of this service to date.

S.C. also indicated that she had not received the Tenant's most recent concerns until he served them as part of his Application package in preparation for this hearing. S.C. stated that she would have liked to have been informed of these incidents as they occur rather than part of a dispute resolution proceeding.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 28 of the *Act* provides that a Tenant is entitled to quiet enjoyment including the right to reasonable privacy and freedom from unreasonable disturbance. Residential Tenancy Policy Guideline 6 further discusses the right to quiet enjoyment and provides that:

Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of 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.

The Residential Tenancy Policy Guideline 6 also sets out 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.

A landlord can be held responsible for the actions of other tenants if it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it.

In this case, the Tenant discussed several concerns regarding security and access issues relating to the rental building. The Tenant stated that he feels as though there is a lack of security presence at the building to deal with issues that arise. The Tenant stated that he has taken it upon himself to deal with several incidents, which he feels has impacted his right to quiet enjoyment.

S.C. indicated that the Tenant can reports safety concerns to the Landlord during regular business hours as well as an after-hours security service. Furthermore, S.C. indicated that there is also a security guard that patrols the building periodically. S.C. stated that the Tenant has not yet made use of the after-hours security services and that the incident reports where only provided to the Landlord as part of the hearing package.

In this case, I find that the Tenant has provided insufficient evidence to demonstrate that the incidents described constitute substantial interference of the Tenant's quiet enjoyment. I find that the Tenant has taken it upon himself to take action in situations in which he could have called the after-hours security services instead of involving himself in the situation. Furthermore, I find that the incident reports where submitted to the Landlord after the Application was made; therefore, it is likely that the Landlord was unaware of the incidents to take action to mitigate the incidents from reoccurring.

It is suggested that the Tenant contact the Landlord and after-hours security services when safety concerns arise, rather than dealing with it himself. The Landlord must ensure that the Tenants' right to quiet enjoyment is protected and must take action to address any situations which may impact this right. Should the Tenant report legitimate

safety concerns to the Landlord or the after-hours security and the Landlord does not take action to address the concerns, the Tenant is at liberty to make an Application for rent reduction or other monetary compensation.

### Conclusion

The Tenant has provided insufficient evidence to demonstrate that incidents he described constitute substantial interference of his quiet enjoyment. Furthermore, the Tenant has provided insufficient evidence that the Tenant reported the incidents to the Landlord or after-hours security services in a timely manner to address the issues. As such, the Tenant's Application is dismissed with 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: June 20, 2019

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Residential Tenancy Branch