



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

RR, OLC

### **Introduction**

This hearing was convened in response to an application by the tenant filed November 19, 2019 under the *Residential Tenancy Act* (the Act) for a rent reduction pursuant to Section 27 of the Act, and an Order for the landlord to comply with the Act pursuant to Section 29 of the Act.

I accept the tenant's testimony, that despite the landlord having been served with the application for dispute resolution and notice of hearing by *registered mail* dated December 05, 2019, in accordance with Section 89 of the Residential Tenancy Act the landlord did not participate in the conference call hearing. I further accept the tenant's evidence that the tenant personally served the landlord with all their evidence as provided to this proceeding. I therefore find the landlord was duly served with the case against them and the hearing proceeded in their absence. The tenant was given full opportunity to be heard, to present evidence and to make submissions.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, only evidence relevant to the issues and findings in this matter are described in this Decision.

### **Issues to be Decided**

Is the tenant entitled to a reduction of the payable rent for repairs, services or facilities agreed upon but not provided?

Should the Landlord be ordered to comply with the *Residential Tenancy Act*, the *Regulation* or the tenancy agreement?

### **Background and Evidence**

The tenant testified this tenancy started 2 years ago as furnished one-bedroom home, for \$600.00 per month, inclusive of furnishings, and that the rent was previously ordered by the Director payable at \$550.00 per month (March 2018). The tenant testified that the landlord has removed all furnishings from the rental unit purportedly in retaliation for “losing at the October 25, 2019 hearing”. The tenant provided evidence the landlord removed a dining room table and chairs, a living room sofa, a television with surround sound system, as well as the satellite box, and the tenant’s bed frame and mattress. The tenant testified the landlord also removed an electric fireplace which provided the primary source of heating for the rental unit, which the tenant explained is at the top of a mountain. The tenant testified the house has 2 small electric baseboards which are inadequate in temperatures at more than *minus* 20 degrees.

The tenant also testified that despite the landlord having previously been ordered to only enter the rental unit in accordance with Section 29 of the Act (March 2018) the landlord continues to enter the rental unit without their knowledge or consent, or under the guise of urgency or an emergency, to check on a claimed problem. The tenant stated the landlord claims of needing entry to the unit for a lawful purpose because the reason relates to a leak of a pipe which the landlord has not repaired despite knowing of the leak for months. They further stated that the landlord does not provide written notice in accordance with the Act and that they often will text the tenant of an urgent need to enter the unit when the tenant is not at home or are just leaving the rental unit. The tenant provided a copy of such text messages into evidence, and moreover copies of previous Decisions of past hearings identified on the *style of cause* page.

### **Analysis**

*The full text of the Act, Regulation, and Residential Tenancy Policy Guidelines can be accessed via the RTB website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)*

On preponderance of the undisputed testimony and evidence of the tenant and on a balance of probabilities I find as follows.

The tenant has applied for relief pursuant to Section 27(2)(b) for the landlord removing furnishings, and a primary heating source previously included in the rent as part of the tenancy agreement.

The tenant has also applied for an Order the landlord comply with the Act. The evidence submitted by the tenant, indicates the landlord’s conduct and actions as not being in compliance with a previous Order of the director for the landlord to comply with Section 29 of the Act.

TAs a result of the above I find that the tenant has provided sufficient undisputed evidence that the landlord has terminated a *service or facility* material to the tenancy agreement and for which the landlord has not reduced the rent an amount equivalent to the reduction in the value of the tenancy agreement resulting from the termination of same. As a result, pursuant to **Sections 62(3) and 65(1) of the Act**,

**I hereby authorize** the tenant to reduce the payable monthly rent from the current amount of \$550.00 by **\$75.00 per month, to \$475.00 per month effective November 01, 2019**, for the loss of furnishings and loss of a primary heating source,

**I hereby Order that** the tenant, **may reduce from a future rent**, any portion of rent paid in excess of \$475.00 for the months of **November and December 2019, and for January 2020**.

Again, the landlord is reminded of a tenant's right to quiet enjoyment which has previously been articulated to the landlord, and hereby again reproduced. It must be noted that it remains available to the tenant to seek monetary relief upon application should their right to quiet enjoyment be abridged.

#### **Protection of tenant's right to quiet enjoyment**

**28** 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.

I find that the landlord was previously Ordered that they shall not enter the rental unit unless in accordance with Section 29 of the Act which is hereby again reproduced for the landlord's reminder and strict compliance.

#### **Landlord's right to enter rental unit restricted**

**29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
  - (i) the purpose for entering, which must be reasonable;
  - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1)(b).

Again, the following Order cannot be more strongly stated.

**I Order** the landlord to strictly comply with **Section 29** of the Act.

And, the following must be noted.

Should the Landlord continue to enter the rental unit in violation of the *Act*, the tenant shall be at liberty to apply for monetary relief and/or to make the landlord's right to enter conditional pursuant to **Section 70(1)** or deny the landlord access to the rental unit pursuant to **Section 70(2)** of the Act.

**Conclusion**

The tenant's application for authorization to reduce the rent is granted in the above terms and Order

The Tenant's application for an Order the Landlord comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and tenancy agreement is granted. The terms of which are set out in my Order.

**This Decision is final and binding.**

*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: January 21, 2020

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Residential Tenancy Branch