



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFT OLC

### **Introduction**

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

- an order requiring 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 of the *Act*.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 9:51 a.m. to enable the landlord to participate in this scheduled hearing for 9:30 a.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant and I were the only ones who had called into this teleconference

The tenant provided sworn, undisputed testimony that she had personally served the landlord with her application for dispute resolution hearing package ("Application") and evidence on January 21, 2020. The tenant testified that the landlord attempted to refuse service of these documents, which were later returned to her. Although the documents were returned to the tenant, I find that the tenant had served the landlord her application package in accordance with sections 88 and 89 of the *Act*.

### **Issues**

Is the tenant entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to recover the filing fee for this application?

### **Background and Evidence**

The tenant testified to the following facts. This fixed-term tenancy began on August 1, 2019. The monthly rent is set at \$2,450.00, payable on the first of every month. The tenant paid a security and pet damage deposit totalling \$2,450.00.

The tenant testified that she lives in the upper portion of the home, while the landlord resides in one of the two suites below.

The tenant testified that she has been the subject of harassment from the landlord, and the landlord has threatened to turn off her hot water. The tenant testified that the landlord may be overseas, and has not provided her with any emergency contact information.

The tenant testified that the landlord has also entered her rental unit without her knowledge or permission. The tenant testified that there was an incident where she was surprised by the landlord in her rental unit, who had entered her rental unit through her unlocked door.

### **Analysis**

In consideration of the evidence and testimony before me, I remind the landlord of her following obligations under the tenancy agreement and the *Act* as set out below:

The tenant testified that she was not provided an emergency contact for the landlord, who may be out of town. Section 33(2) of the *Act* requires that "The landlord must post and maintain in a conspicuous place on residential property, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs."

The tenant also testified that she felt harassed and threatened by the landlord. Section 28 of the *Act* states the following about the tenant's right to quiet enjoyment:

#### **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...

(b) freedom from unreasonable disturbance;...

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

The tenant described at least once incident where the landlord entered her rental unit without proper notice, or without her permission. Section 29 of the *Act* states the following:

***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.*

I also remind the landlord that the landlord cannot simply terminate or restrict facilities as set out below:

**Section 27 Terminating or restricting services or facilities**, states as follows,

**27** (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

As I find the tenant's application has some merit, I allow the tenant to recover half of the filing fee from the landlord.

### **Conclusion**

The landlord was reminded of her obligations under the *Act* and tenancy agreement.

I allow the tenant to recover half of the filing fee from the landlord. I allow the tenant to implement a monetary award of \$50.00 by reducing a future monthly rent payment by that amount.

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 20, 2020

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Residential Tenancy Branch