



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, MNDC

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement; and
- compensation for a monetary loss or other money owed.

The tenant and the landlord's agents (landlords) attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties confirmed receiving the other's evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters-

The tenant withdrew her monetary claim, and I therefore excluded it from any consideration in this matter. The hearing proceeded on the tenant's other request.

Issue(s) to be Decided

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

Background and Evidence

The tenant said her tenancy began in this building on September 1, 2012. The evidence shows that the rental unit is in a supportive housing building, owned by BC Housing.

In support of her application, the tenant submitted that the landlord has illegally restricted access to her rental unit, as her partner is not allowed to stay with or visit her now, since the landlord posted a notice in the elevator. The notice stated that as of March 23, 2020, the landlord implemented strict guest restrictions, and that only health care professionals and assisted access supports will be able to access the building.

The tenant said that since the restriction, her partner has not been allowed in the building. The tenant said that not having her partner there has severely impacted her mental health, as she worries for his safety and also because they are not able to help each other get through the Covid-19 crisis. The tenant said that her partner only has his RV to stay in, with no fixed location.

The tenant said that although she lives in supportive housing, no one from the landlord's staff has ever checked on her well-being and they do not ask if she needs anything.

In response to my inquiry, the tenant confirmed that to access her rental unit, one would have to enter the lobby area, use the elevator and walk through a hallway.

The tenant submitted that her partner does not go anywhere in the building other than to her apartment; however, the tenant said that he does sometimes visit his friend next door.

*Landlord's response-*

The landlord submitted that the (\*unnamed\*) Health Authority (*name removed to protect privacy*) monitors several residential properties owned by BC Housing, in conjunction with BC Housing.

The landlord submitted that the Health Authority issued protocols in response to the Covid-19 health crisis. These protocols included screening for anyone entering the premises and put into place to ensure the safety and health of staff, health professionals, and residents. The landlord submitted a copy of the protocols, instructions, and screening process.

The landlord said that the Health Authority inspected the residential property last week and told the landlord that they have exemplary protocols.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 30(1)(b) of the Act states that a landlord must not unreasonably restrict access to a residential property by a person permitted on the residential property by the tenant.

In this case, however, the *Ministerial Order M089* issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, states:

- 1) It is not unreasonable under section 30 (1) of the Residential Tenancy Act for a landlord to restrict access to common areas of the residential property by:
  - (a) a tenant of a rental unit that is part of the residential property, or
  - (b) a person permitted on the residential property by a tenant, if the restriction is necessary
  - (c) to protect the health, safety or welfare of the landlord, the tenant, an occupant or a guest of the residential property due to the COVID-19 pandemic,
  - (d) to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the Emergency Program Act, or
  - (e) to follow the guidelines of the British Columbia Centre for Disease Control or the Public Health Agency of Canada.
- 2) Despite subsection (1), a landlord must not prevent or interfere with the access of a tenant, another occupant of the rental unit or a tenant's guest to the tenant's rental unit.

In this case, I find the landlord submitted sufficient evidence to show that they restricted access to the building and implemented protocols for the health and safety of their staff, healthcare professionals, and the residents.

Under the Ministerial Order, the landlord is allowed under these circumstances, to restrict access to the building until the State of Emergency expires or is cancelled, or the date on which the last extension expires or is cancelled.

I also found it troubling that although the tenant said her partner does not wander the building and just goes to her rental unit, she said her partner does visit her neighbour. I find it reasonable to conclude that such behaviour would further increase the other residents' chances of exposure to Covid-19, which the landlord is trying to reduce by the restrictions.

The undisputed evidence, confirmed by the tenant, is that her rental unit can only be accessed by going through common areas of the building, such as the lobby, elevator and hallway. As the landlord is entitled to restrict access to the common areas, I find the landlord complied with the authority granted them by the Ministerial Order as noted above.

As a result, I dismiss the tenant's application for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, without leave to reapply.

### Conclusion

The tenant's application is dismissed, as I have found that the landlord had authority under the Ministerial Order issued March 30, 2020 to restrict access to the common areas of the residential property.

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: May 25, 2020