



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      RP, AAT, LAT, LRE, OLC

### **Introduction**

This hearing dealt with the tenant's application pursuant 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;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70; and
- an order to allow the tenant to change the locks to the rental unit pursuant to section 70.

While the tenant and his parents attended the hearing by way of conference call, the landlord did not. I waited until 11:28 a.m. to enable the landlord to participate in this scheduled hearing for 11:00 a.m. The tenant's parents ("tenant") testified on behalf of the tenant in this hearing. The tenant and his parents were 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, his parents, and I were the only ones who had called into this teleconference.

The tenant provided sworn, undisputed testimony that on May 27, 2020, the landlord was served with the tenant's application for dispute resolution package and evidence by way of email to the email address that the landlord has used in the past for correspondence related to this tenancy. In accordance with sections 88, 89, 90, and the

Order of the Director dated March 30, 2020, I find the tenant's documents deemed served to the landlord on May 30, 2020, 3 days after the documents were emailed.

**Issues(s) to be Decided**

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

Is the tenant entitled to an order requiring the landlord to make repairs to the rental unit?

Is the tenant entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit?

Is the tenant entitled an order to allow access to or from the rental unit or site for the tenant or the tenant's guests?

Is the tenant entitled to an order to allow the tenant to change the locks to the rental unit?

**Background and Evidence**

This month-to-month tenancy began on September 1, 2018, with monthly rent currently set at \$500.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$250.00, which the landlord still holds.

The tenant filed this application as he feels that the landlord has denied him access to a facility that was provided to him by the landlord as part of this tenancy. The tenant provided the following sworn testimony for this application.

The tenant was provided the use of a storage room located inside the garage by the landlord as part of this tenancy. The tenant's parents testified that the tenant was provided with a key for this storage room. The tenant is blind, and requires access to his belongings, which are stored in the storage room.

During this tenancy, the landlord has revoked the tenant's access and right to use the storage room, and has changed the lock, as well as removed the door that secures the room. The tenant has expressed concern about his personal belongings, his personal safety, as loss of use of a facility that was provided to him.

The tenant's parents testified that the landlord has threatened to remove the tenant's belongings at his expense. The tenant's parents testified that the landlord has harassed the tenant, and is concerned that the landlord accessing his rental unit, or touching his personal belongings without his permission. The tenant's parents testified that the landlord had removed the guides used by the tenant on the property, which are essential to the tenant's living and safety as a legally blind person.

### **Analysis**

Section 27 of the Act states the following about a landlord's obligation to provide facilities as set out in a tenancy agreement:

**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.

I note that although the written tenancy agreement submitted does not note the use of the storage room as an included facility, I find that the tenant has provided sworn, undisputed testimony that the landlord had provided this facility as part of the tenancy since the beginning of this tenancy. I find that this is further supported by the fact that the tenant has provided evidence to support that the storage room contains his personal belongings.

I find that the landlord had unilaterally revoked the tenant's access to this storage room, without proper notice or compensation as required by the *Act*.

I find that by denying the tenant's access to the storage room, and by removing or moving the tenant's personal belongings, I find that the landlord has contravened

section 28 of the *Act*, which protects the tenant's right to quiet enjoyment as set out below.

### **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.
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

Accordingly, I make the following orders:

I order that the landlord restore the tenant's access to the storage room.

I order that the landlord replace the door and lock to the storage room, and provide the tenant with a key.

I order that the landlord return any of the tenant's personal belongings that were removed or taken from the tenant within 3 days of receiving this order.

I order that the landlord refrain from touching or removing any of the tenant's personal belongings without the tenant's written permission or an Order of an Arbitrator.

I order that the landlord comply with their obligations under the *Act* and tenancy agreement, including ensuring the tenant's right to quiet enjoyment.

I order that the landlord comply with the Ministerial Order dated March 30, 2020, while in effect during the state of emergency, which restricts the landlord's right to enter the tenant's rental unit as set out below:

**Landlord's right to enter rental unit – *Residential Tenancy Act***

**8** (1) Despite section 29 (1) (b) of the *Residential Tenancy Act* and sections 11 (2) (a) and (3) of the Schedule to the *Residential Tenancy Regulation*, a landlord must not enter a rental unit that is subject to a tenancy agreement even if the landlord gave the tenant written notice in accordance with those sections that the landlord would be entering the rental unit.

(2) If a landlord gave written notice under section 29 (1) (b) of the *Residential Tenancy Act* before the date of this order, and the date for entering the rental unit given in the notice increase is after the date of this order, that notice is null and void.

(3) Despite any section of the *Residential Tenancy Act*, the *Residential Tenancy Regulation* or any term of a tenancy agreement that limits entry by a landlord into a rental unit that is subject to a tenancy agreement, a landlord may enter a rental unit that is subject to a tenancy agreement if the following applies:

- (a) an emergency in relation to the COVID-19 pandemic exists, and
- (b) the entry is necessary to protect the health, safety or welfare of the landlord, a tenant, an occupant, a guest or the public.

If the landlord fails to fulfil their obligations as set out in the *Act* as stated above and in the tenancy agreement, the tenant has the right to claim for losses and money owed under the relevant sections.

**Conclusion**

I order that the landlord restore the tenant's access to the storage room.

I order that the landlord replace the door and lock to the storage room, and provide the tenant with a key.

I order that the landlord return any of the tenant's personal belongings that were removed or taken from the tenant within 3 days of receiving this order.

I order that the landlord refrain from touching or removing any of the tenant's personal belongings without the tenant's written permission or an Order of an Arbitrator.

I order that the landlord comply with their obligations under the *Act* and tenancy agreement, including ensuring the tenant's right to quiet enjoyment.

I order that the landlord comply with the Ministerial Order dated March 30, 2020, while in effect during the state of emergency, which restricts the landlord's right to enter the tenant's rental unit.

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 11, 2020

---

Residential Tenancy Branch