



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      AAT, OLC, FFT

### 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 allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue(s) to be Decided

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

Is the tenant entitled to an order allowing him or his guests access to the rental suite?

Is the tenant entitled to the recovery of the filing fee for this application from the landlord?

### Background and Evidence

The tenant gave the following testimony. The tenant testified that his unit is directly across from the resident manager; CC. The tenant testified that CC speaks very loudly on her cell phone in the hallway outside his door which he finds bothersome and

annoying. The tenant testified that CC's suite has a horrible smell that wafts into the hall and into his unit causing him to feel unwell and to lose sleep. The tenant testified that he sleeps in the day due to shift work and that CC's actions have impacted his health. The tenant testified that CC has also stopped his guests from visiting him on at least three occasions. The tenant testified that CC has unjustly stopped visitors from attending.

The tenants advocate made the following submissions. LH submits that the landlord has breached section 28 and 30 of the Act and that the tenant's quiet enjoyment has been affected by prohibiting guests to visit the tenant. LH submits that the landlord promised to install weather stripping around the tenant's door and CC's door, but it has not occurred.

The landlords gave the following testimony. CC testified that the tenant has been very difficult to deal with since she began as the on-site manager in September 2019. CC testified that the tenant makes racial slurs against her and is very aggressive to deal with to the point where the police became involved and that the tenant has now been charged with criminal harassment. CC testified that the weather stripping has already been installed. GZ testified that the smell and noise issue was resolved in February 2020. GZ testified that the landlord has been in compliance with multi unit protocols in accordance with the provincial guidelines. GZ testified that the tenant is upset that CC is a very diligent manager who carries out her duties and responsibilities and that he is upset that he can no longer do whatever he wants.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below. The relationship between the parties is an acrimonious one. It was evident during the hearing with each party accusing the other of lying on several occasions.

### *Order to have the Landlord Comply –*

The tenant and his advocate spent the majority of the hearing arguing that the landlords have not provided enough evidence to prove their position, however; it is incumbent on the tenant who is the applicant to provide sufficient evidence to support his claim. In terms of the tenant's allegation that the CC is loud and has noxious odours coming from her suite, were met with disputing testimony by both CC and GZ. GZ testified that she brought the issue to CC's attention that she complied since February 2020. CC testified

that the management has already installed weather stripping around CC's suite door and the tenant's door and that the issue is resolved. I find that the tenant has not provided sufficient evidence to show when these issues began, how often they occurred, and if they are still ongoing to support this portion of his claim, accordingly; I dismiss this portion of the tenants application.

*Order allowing the Tenant or Guests Access-*

CC testified that she only stopped one visitor from visiting the tenant as he had been wandering the halls. CC testified that she was concerned for other tenants' safety and that she has suspicions that the tenant and this individual were engaging in drug activity. GZ testified that the landlord has requested that tenants minimize the amount of people entering the building due to the COVID -19 pandemic and that access was not restricted specifically for this tenant.

The tenant and his advocate referred to a notice the landlord posted and claimed it prohibited access for tenants and their guests and therefore breached the tenant's rights under section 28 and 30 of the Act. I find that the tenant is incorrect in this interpretation. The notice posted clearly **requests** that all tenants cooperate in limiting who enters the building. In addition, I find that the tenant did not provide sufficient evidence of the alleged restriction of access to his guests. Based on the insufficient evidence before me, I dismiss this portion of the tenants claim.

As the tenant has not been successful in their application, I hereby dismiss their request for the recovery of the filing fee.

Conclusion

The tenant's application is dismissed in its entirety without 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 22, 2020

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Residential Tenancy Branch