



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OLC, LRE, FF

### **Introduction**

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for an order directing the landlord to comply with the *Act*, and an order to suspend the landlord's right to enter the rental unit. The tenant also applied for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was sent via email on June 01, 2020. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the tenant entitled to the remedies he has applied for? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started in April 2020. The rental unit consists of a one-bedroom suite in the lower level of the landlord's home. The landlord lives upstairs. The tenant filed a copy of the advertisement he responded to. The advertisement states that the suite has a shared laundry and entrance.

The tenant stated that the suite has two entrances. The entrance in the rear is a common entrance but the one in the front goes right through his living space to provide access to the stairs going up to the upper level. The advertisement did not specify which entrance is shared.

The tenant testified that the landlord is elderly and needs the assistance of care workers on a daily basis. The care workers access the upper level using the front entrance which allows them to walk through the tenant's suite. The tenant stated that he is not provided any notice and his privacy is jeopardised.

The tenant has applied for an order directing the landlord and her care workers to use the rear entrance for access to the upper suite.

### **Analysis**

At common law, the tenant has a right to quiet enjoyment and peaceful occupation of the premises.

*Residential Tenancy Policy Guideline #7* states:

A landlord must not enter a rental unit in respect of which the tenant has a right to possession unless one of the following applies:

- an emergency exists and the entry is necessary to protect life or property,
- the tenant gives permission at the time of entry, or
- the tenant gives permission not more than 30 days before the time of entry,
- the landlord gives the tenant written notice not less than 24 hours, and not more than 30 days before the time of entry.
- 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
- the tenant has abandoned the rental unit, or
- the landlord has an arbitrator's order authorizing the entry.

Based on the tenant's evidence and testimony and in the absence, I find that the front entrance to the rental unit passes right through the rental unit and affects the tenant's privacy and quiet enjoyment when used without prior notice. The landlord has access to her suite through the rear entrance which is located in the common area and is for the use of all occupants of the house.

Based on the tenant's testimony and documents filed into evidence, I find that the tenant's application for an order directing the landlord and her visitors to use the rear entrance for access to her living space is reasonable and ensures the tenant's safety and privacy. Accordingly, I order the landlord to do so.

In the event that the landlord needs to use the front entrance for health and safety reasons, the landlord may do so by providing the tenant with proper notice.

Since the tenant has proven a portion of his claim, he is entitled to the recovery of the filing fee. I allow the tenant to make a one-time deduction of \$100.00 from a future rent.

**Conclusion**

- The tenant may make a one-time deduction of **\$100.00** from a future rent.
- The landlord must use the common rear entrance for access to her suite.

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 25, 2020

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Residential Tenancy Branch