



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNDC*

### **Introduction**

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*. The tenant applied for a monetary order for compensation for the loss of quiet enjoyment due to “constant interruptions and distressing behaviour” of the landlord.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented herself and was accompanied by her advocate. The landlords represented themselves.

As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other’s evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*. I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

### **Issues to be decided**

Is the tenant entitled to compensation?

### **Background and Evidence**

The tenancy started on April 01, 2019 and ended on April 01, 2020. The monthly rent was \$750.00 due on the first of each month. The rental unit consists of a single bedroom with a shared common area and is located in the two-bedroom basement of the landlord’s home. The second bedroom in the basement is rented out separately.

The tenant stated that she was seeking compensation for the last three months of stay when the landlord constantly came into the basement without notice and caused the tenant distress. The landlord replied that the basement was part of the common area that she had access to and therefore notice to enter was not necessary.

A tenancy agreement was filed into evidence along with a questionnaire that the tenant was asked to complete prior to signing the tenancy agreement. The tenancy agreement clearly specifies the common areas. The common areas in the basement are listed as:

Kitchen  
3-piece bathroom  
Recreation room  
Laundry area.

The landlord clarified that the upper level is self contained and that she did not use the kitchen or washroom in the basement.

However, the wording in the tenancy agreement is ambiguous and the common area could be interpreted as common to the two occupants of the basement or common to the occupants and the landlord. The tenant stated that she understood that the common area was for the sole use of the two tenants in the basement.

The landlord referred to the questionnaire that was filled out by the tenant.

One of the questions was:

*Would you be okay with us using one end of the rec room as a workout space at times?*

The tenant's reply was:

*Yes, that would not be a problem*

The landlord stated that the tenant was aware right from the start of tenancy that the common areas in the basement were available for the landlord's use. The tenant replied that the landlord only started using these areas in the last three months of tenancy.

The tenant also spoke about an incident that occurred on March 27, 2020 when the landlord objected to the presence of a guest of the other occupant of the basement. The landlord's concern was that the recommendation of social distancing that was prevalent at the time, was not being observed.

The tenant stated that she felt unsafe when the landlord banged on her roommate's door. The landlord denied banging on the door and said she knocked on the door. The tenant called the police. A police report was filed into evidence. The report is addressed to the landlord and states:

*On March 27 ,2020 Police received a call from an adult female who stated she was "felling threatened" by you and an adult male for another resident having a friend over. Upon attendance to a residence in Coquitlam, Police spoke to the complainant who was hysterical at the time; she advised that another female resident had been asked to not have any guests over during the COVID 19 pandemic. Once calm, the complainant told Police that she feels safe, was moving out in 2 days and was never threatened. Police spoke to the other female resident who advised she feels safe, was also moving out in 2 days and believed the matter could have been handled better. Police spoke with yourself and an adult male. Police noted you both were cooperative, stated that you had no intention of involving Police and were just fearful of people breaking isolation by coming into the residence. No criminal offences occurred. Our file concluded.*

The tenant is claiming three months' rent in the amount of \$2,250.00 as compensation for the loss of quiet enjoyment of the premises.

### **Analysis**

In order to prove an action for a breach of the covenant of quiet enjoyment, the tenant must show that there has been a substantial interference with the ordinary and lawful enjoyment of the premises, by the landlord's actions that rendered the premises unfit for occupancy.

In this case, the tenant testified that the landlord repeatedly entered the basement without notice. I have reviewed the tenancy agreement and the questionnaire filed into evidence. While some of the language in the tenancy agreement is ambiguous, it is clear from the questionnaire that the landlord shared the use of the common areas in the basement, which are specifically listed in the tenancy agreement. Therefore, I find that the landlord did not have to provide notice to the tenant every time she visited the basement.

The incident that took place on March 27, 2020 was regarding the presence of a guest of the other occupant of the basement. Even if I find that the landlord was banging on the door, it was not on the tenant's door. The police assessed the situation, spoke with all parties and concluded that no criminal offense had occurred.

I find that by her own admission, the tenant indicated to the police officer who attended the residence on March 27, 2020, and documented it in the report, that she felt safe and was never threatened.

Based on the testimony of both parties and documents filed into evidence, I find that the tenant has not proven that there was substantial interference with the ordinary and lawful enjoyment of the premises, by the landlord's actions. Accordingly, the tenant has not proven that she is entitled to compensation.

### **Conclusion**

The tenant's application is dismissed in its entirety.

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 29, 2020

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Residential Tenancy Branch