



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LRE, AS, OLC

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order limiting or setting conditions on the landlord's right to enter the rental unit, an order permitting the tenant to assign or sublet the rental unit; and for an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement.

The tenant and an agent for the landlord attended the hearing and each gave affirmed testimony. The parties have also provided evidentiary material to the Residential Tenancy Branch and to each other.

The landlord's evidence was filed later than permitted by the Rules of Procedure, however the landlord's agent testified that the automated system would not allow the landlord to sign into the program, and the landlord's agent sought assistance from the Residential Tenancy Branch on August 10, 2020. The evidence of the landlord has also been provided by the tenant with the exception of 2 pages of typed material. The tenant did not oppose the inclusion of the landlord's evidence, and all evidence provided by the parties has been reviewed and is considered in this Decision.

During the course of the hearing the tenant withdrew the application for an order permitting the tenant to assign or sublet the rental unit, and testified that portion of the tenant's application was an error.

### Issues to be Decided

The issues remaining to be decided are:

- Has the tenant established that the landlord's right to enter the rental unit be limited?
- Has the tenant established that the landlord should be ordered to comply with the *Residential Tenancy Act*, tenancy agreement or laundry agreement?

### Background and Evidence

**The tenant** testified that this fixed-term tenancy began on June 15, 2020 and expires on June 15, 2021 and then reverts to a month-to-month tenancy. Rent in the amount of \$2,100.00 is payable on the 1<sup>st</sup> day of each month and the tenant paid a pro-rated amount of half a month's rent for the first month of the tenancy. On June 3, 2020 the landlord collected a security deposit from the tenant in the amount of \$1,050.00, and no pet damage deposit was collected. The rental unit is the upper level of a house, and the lower level now has 2 basement suites that are tenanted; the landlord does not reside on the property. A copy of the tenancy agreement has been provided as evidence for this hearing.

The tenant further testified that when she moved in, the lower level had a laundry room with a washer, dryer, sink, storage and closet as part of the tenancy agreement. However, the landlord had contractors enter the laundry area and added another washer and dryer in the same space.

The tenancy agreement specifies that the tenant will pay 70% of utilities, being BC Hydro and natural gas. When a tenant moved into the a suite in the lower level of the home, the landlord and the tenant entered into a laundry agreement which specified that the tenant in the lower level would pay to the tenant in the upper level \$100.00 per month which was to cover part of the tenant's portion of utilities. The landlord had said that if the tenant didn't allow access to the laundry area, the landlord would not be able to rent the basement suites. A copy of the laundry agreement has also been provided for this hearing. The tenant was opening the door for that tenant but at the beginning of August, the landlord said that the tenant in the lower level would not be using the washer and dryer. Both basement suites are now using the 2<sup>nd</sup> set of the washer and dryer and the landlord is receiving the \$100.00 per month. It's now a common area divided by a wall so that no one can enter the tenant's side of the laundry area.

If the tenants in the lower level are not using the original laundry facilities, the tenant's utilities should be 50%, and the tenant should still receive the \$100.00 per month as per the laundry agreement. The landlord has offered to reduce the utilities to 60% only.

The tenant got an email from the landlord on August 23, 2020 stating that the hydro bill was \$149.18 with a message asking the tenant to pay her portion along with the rent, as well as a gas bill of \$57.46.

The tenant does not want to agree to 60% of utilities because the tenant is no longer getting \$100.00 from the tenant in the lower level. The tenant's unit is a 3 bedroom unit, and is quite big, but the tenants in the lower suites keep lights on, and a fan and air conditioning all the time, while the tenant is careful about not using too much electricity. Now there are 2 washers and 2 dryers.

**The landlord's agent** testified that there were no other units in place at the beginning of this tenancy so the tenant was told that laundry use was exclusively hers. After that, when a tenant moved into a lower level suite in July, 2020, he was giving \$100.00 to the tenant to do 2 loads of laundry per week, and that would go toward the tenant's 70% of utilities.

Another tenant moved into the other lower level unit and the tenant did not want another person to use the laundry as well. The tenant was upset about it and the landlord offered to reduce the utilities to 60% because the upper level is bigger, noting that 10% would be for laundry.

Due to the COVID-19 Pandemic the landlord had to give each tenant a safe place for laundry. Now the basement tenants have their own access to laundry instead of having restrictions in place by the tenant of 2 loads per week in the laundry agreement.

The landlord received a hydro bill which runs from June 16 to August 14, 2020, which totalled about \$207.00. and 60% of that is about \$124.00. The tenant already got \$100.00 from the tenant in the lower level, but there was no utility bill at that time which would mean that the tenant would only be paying about \$24.00 for July as a result of the laundry agreement. The landlord is still asking the tenant to pay 60%, not 70%.

The gas bill is for heat in the home. which is about \$57.00 per month and at 60% amounts to about \$34.00. The tenant paid \$27.69 for the July gas bill which totalled \$39.55.

The landlord has asked the tenant to pay 60% and do away with the laundry agreement because the tenant is no longer required to give access to the tenants in the lower level, and the tenants in the lower level pay 20% each.

The landlord's agent submits that the landlord is not collecting the \$100.00 from each tenant downstairs. Each of them are paying 20% of the utilities up front or with their

rent and want to pay it with the rent so their receipt shows that. They pay \$1,350.00 per month, plus 20% of the utilities, and just moved in on July 1, 2020.

### Analysis

The tenant has provided copious amounts of photographs and text messages as evidence, and I am surprised that the parties would text back and forth that many times between June 15, 2020 which was the beginning of the tenancy, and July 22, 2020, the date the evidence was uploaded to the Residential Tenancy Branch automated system.

The parties entered into a tenancy agreement on June 3, 2020 for a tenancy commencing June 15, 2020. Free laundry is included in the rent and the parties agreed that the tenant would pay 70% of the utilities for the building.

A new tenant moved into a lower level suite and as a result, the landlord and tenant entered into a laundry agreement dated June 29, 2020 stating that the tenant will provide access to the laundry room to tenant in the lower level once a week for 2 loads, and the tenant will charge \$100.00 which will go toward the 70% utilities.

Generally, a party may not change an agreement without the written consent of the other party. The tenant's position is that there are now 2 suites in the lower level, and if the tenants in the lower level are not using the original laundry facilities, the tenant's utilities should be 50%, and the tenant should still receive the \$100.00 per month as per the laundry agreement. The tenant does not want to agree to 60% of utilities because the tenant is no longer getting \$100.00 from the tenants in the lower level. I disagree.

The landlord provided evidence of the amount of the utility bills. I am not satisfied that it would be just in the circumstances for the tenant to have the benefit of an additional 20% of the utilities over the tenancy agreement and laundry agreement, and \$100.00 per month. Using the evidence of the landlord, the July gas bill was \$39.55 and the tenant paid \$27.69, which is 60%. The hydro bill from June 16 to August 14 was \$207.00 and at 60% the tenant's share is about \$124.00. The tenant's share of the hydro bill and gas bill combined would be about \$151.00, less \$100.00 from other tenants, for a total of about \$51.00. I don't think the tenant should get it both ways.

The landlord has asked the tenant to pay 60% and do away with the laundry agreement because the tenant is no longer required to give access to the tenants in the lower level, and the tenants in the lower level pay 20% each. The landlord is not collecting the \$100.00 from each tenant downstairs.

There is no evidence that the tenants in the lower level use the washer or dryer any more often than when it was a shared laundry room. Considering the size of the units, the tenant's being a much larger unit, I am not satisfied that the tenant has established that the share of utilities as agreed to is not legal or justified.

The landlord has offered that the tenant's share of utilities be reduced to 60%, and I leave it to the parties to negotiate any further changes to the existing tenancy agreement and the laundry agreement. The tenant's application for an order that the landlord comply with the *Act*, regulation or tenancy agreement is dismissed.

The only evidence of the landlord entering the rental unit contrary to the law is during the construction of the second laundry room. I order that the landlord or the landlord's contractors or agents not enter the rental unit for any purpose unless:

**29** (1) (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

(i) the purpose for entering, which must be reasonable;

(ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

(c) 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;

(d) the landlord has an order of the director authorizing the entry;

(e) the tenant has abandoned the rental unit;

(f) an emergency exists and the entry is necessary to protect life or property.

### Conclusion

For the reasons set out above, the tenant's application for an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement is hereby dismissed.

I order the landlord to comply with Section 29 of the *Act* as set out above.

The tenant has withdrawn the application for an order permitting the tenant to assign or sublet the rental unit.

This order is final and binding and may be enforced.

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: August 31, 2020

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Residential Tenancy Branch