



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to have the landlord comply with the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

### Issue to be Decided

Should the landlord be ordered to comply with the Act?

### Background and Evidence

The tenancy began on December 1, 2014. Rent in the amount of \$348.00 was payable on the first of each month. A security deposit of \$174.00 and a pet damage deposit of \$174.00 was paid by the tenant.

The tenant testified that they want the landlord to comply with the Act, as there are other tenants adversely affecting security safety, and physical well-being and to provide crime free housing. The tenant stated that there is a pattern of bullying and assaults from another tenant and a guest.

The tenant testified that on October 6, 2020, there was a fire alarm at 1:36 am. The tenant stated that the whole process took about 25 minutes before they were allowed back into the building. The tenant stated that they were in the elevator and the door was closing when another renter named EC, put their hand in the door. The tenant stated

that they asked EC to take the other elevator. The tenant stated that EC began pulling at them and they were dragged from the elevator and was assaulted.

The tenant testified that on October 20, 2020, they were outside the building having a smoke when a different renter came up behind them scaring them. The tenant stated that they informed this person that they cannot do that, especially since they were recently assaulted by EC. The tenant stated that EC then came out of nowhere and started saying things like "you are the one who attacked me". The tenant stated that they walked away into the lobby and EC followed them while taunting them with being charged with assault. EC continue to follow them blocking their way to escape. The tenant stated that residence service co-ordinator told EC that they had to leave.

The tenant testified that in the summer they were weeding the common flower bed in the front of the building when EC deliberately snuck up behind them. The tenant stated that they were frozen with fright. The tenant stated EC began to bully them about doing work in their garden and EC was claiming that they had pulled up their flowers. The tenant stated that EC behaviour scared them, and they pulled the rake up to limit how close EC could get to them. The tenant stated that the following week EC brushed up against them in the community garden.

The tenant testified that in May 2020, they were working in their garden plot using a chair when EC came along and laid their body against them exiting through the back gate. The tenant stated there was enough room for EC to exit.

The tenant testified that on September 29, 2020, they were called names and threatened by a known drug dealer and the landlord has not rectified the problem.

LP witness for the tenant testified that on October 6, 2020, there was a fire alarm and they were outside sitting on the curb. LP stated that they saw the tenant in the elevator and saw them put up their hand to EC, assuming they were telling EC to take the next elevator. LP stated that they could not hear what was being said; however, there was an argument which escalated into a tussle. LP stated that EC pulled the tenant out of the elevator and was trying to hit the tenant.

The landlord testified that there has been a long history between these two tenants and they both have very distinct personalities. The landlord stated that EC is very manipulative and gets under the skin of the tenant.

The landlord testified that on October 6, 2020, the tenant was not allowing EC to access the elevator and it was the tenant that was the aggressor by throwing EC out of the elevator and pulling their hair. The landlord stated that the police were involved; however, EC did not want to lay charges at that time. Filed in evidence are multiple videos of the incident.

The landlord testified that as for the incident in the front garden they were shown a video of where the tenant had EC pinned with a rake and again the tenant was the aggressor.

The landlord testified as to the drug dealer they are not a resident of the building. The landlord stated that they issued four different eviction notices to the residents that were allowing them into the building. The landlord stated two of the evictions were successful at arbitration hearings and two were not. The landlord stated they did what was necessary and have been monitoring the situation. The landlord stated they also spoke to all the residence of the building telling them that they could be evicted if they allow this person into the building. The landlord stated that there as been no recent incidents.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this matter, I am not satisfied that the tenant has proven the landlord has failed to comply with the Act.

I accept that there are issues between the tenant and EC, both parties appeared to be acting in appropriate.

On October 6, 2020, there was a fire alarm in the building and the tenant was in the elevator. The tenant told EC to take the next one; however, the tenant had no right to deny EC access to the elevator. If the tenant did not want to be in the elevator with EC they should have left and not started the incident with EC.

Further, I have reviewed the video footage provided by the landlord. I find the tenant was the aggressor, the tenant clearly was not happy when EC wanted in the elevator and toss EC out and then the tenant is seen pulling EC hair. This is not acceptable behaviour and may be grounds to end the tenancy. No acts of violence will be tolerated.

On October 20, 2020, there was another incident between these tenants. The tenant was informing another renter not to startle them, after being assaulted by EC. EC overheard this conversation and started saying that it was them who was assaulted, which by the video is truthful. While EC acted inappropriate if they were following the tenant in the common area; however, that behaviour was corrected by the residence service co-ordinator when they told EC to leave the area.

In May 2020, there was another incident between these tenants. Where EC was exiting the back gate. I find the tenant has provided insufficient evidence to prove EC had harassed them or that the landlord has violated the Act.

In the summer there was another issue between these tenants in the front garden. That matter escalated where the tenant raised a rake to limit access to EC. However, the landlord said they saw the video taken by the tenant and EC was pinned with the rake. Even if I accept there was a dispute between the tenant and EC on the issue of the garden, the tenant should have simply walked away and informed the landlord. The rake should never have been used to block or pin EC.

As for the issue of the drug dealer that has been accessing the property by other residence granting access. I find the landlord took reasonable and appropriate steps when they issue those residence with notices to end the tenancy and is still monitoring the situation.

Based on the above, I find the tenant has failed to prove the landlord has violated the Act.

However, I am satisfied that the tenant has engaged in violent behaviour with EC. Even if I accept EC, may be annoying the tenant they cannot act with violence or deny EC access to any common area, such as the elevator.

Therefore, I find it appropriate to make the following orders.

**I Order** the tenant not to have any communication directly or indirectly with EC. Should EC be in a common area and the tenant does not want EC there, it is the tenant that is required to vacate. As an example, if EC wants in the elevator the tenant cannot deny access to EC; however, the tenant can choose to leave and take the next elevator.

**I Order** the tenant that should any dispute arise with EC on the property they are not to deal directly with EC or involve other residents of the building, they are to notify the landlord of any such incidents.

**I caution** the tenant that they are putting their tenancy at risk.

Conclusion

The tenant's application is dismissed. The tenant must follow my above order.

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: December 16, 2020

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Residential Tenancy Branch