



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, FFT

### Introduction

The tenant filed an Application for Dispute Resolution on November 3, 2020 seeking the landlord's compliance with the legislation and/or the tenancy agreement. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the "Act") on January 25, 2021.

In the conference call hearing I explained the process and offered each party the opportunity to ask questions. The tenant and the landlord both attended the hearing, and each was provided the opportunity to present oral testimony and make submissions during the hearing.

Both parties confirmed their receipt of the other's evidence in advance of the hearing. On this basis, the hearing proceeded.

### Issue(s) to be Decided

Is the landlord obligated to comply with the *Act*, the regulations, and/or the tenancy agreement, as per section 62 of the *Act*?

Is the tenant entitled to reimbursement of the Application filing fee, pursuant to section 72 of the *Act*?

### Background and Evidence

The tenancy originally began in 2017. The parties agreed that the current amount of rent is set at \$922 per month.

The tenant presented their lingering issues as follows:

- a. Their name does not appear on the doorbell at the main entry to the building. The landlord removed this name display after they previously served a notice to end tenancy that was cancelled in a previous dispute resolution process. The tenant provides that this is necessary for the delivery of medication.

In response, the landlord provides that none of the units have a proper tenant name attached to the door buzzer display. Each unit is indicated by a number, and beside that each state 'occupied'. This is necessary to prevent unauthorized entry into the building by outsiders who pose a security risk. A party would use one unit's tenant's name to gain entry by ringing another unit and lying that they were authorized to enter. For this, the landlord states "The best solution is to have no names on the doors."

In their written submission, the landlord stated: "The building intercom is design[ed] by Apt number not tenants name, so it [is] never missing any delivery service if tenants tell the correct Apt number."

- b. The current parking arrangement grants the tenant two parking stalls. They stated the landlord changed the lines that delineate each parking space in response to a previous dispute resolution process. They plead for a more accessible spot they were using on loan previously for easier access, to accommodate their own mobility issues.

The landlord provided that the tenant parks their car within two spots inside and parks another vehicle outside. The previous deceased tenant – who properly occupied the two parking spaces desired by the tenant here – had requested their spots returned to them. The spaces are currently occupied by the deceased tenant's vehicles, to be dealt with imminently by the building's owners. The landlord provided that the choice for allocation of parking spots is that of the owner.

- c. From their Application, the tenant requests repair of their stove fan and refrigerator. The refrigerator sprays "black mist" inside that requires them to cover anything they place inside. The stove fan has never worked. This has been this way since they moved into the unit in March 2020. The landlord in the past stated this was "supposed to be fixed".

In response, the landlord provided they did not know about this issue until the previous dispute resolution hearing. The landlord is aware that these are issues in the rental unit.

- d. The tenant experienced what they referred to as ongoing harassment. This came in the form of vandalism to their car in the form of a scratch, the landlord's repeated threats to evict, and the landlord's threats to use the damage deposit. They stated the landlord keeps handing them a bill for damages to the inside parking door in the amount of \$644.10.

The tenant's assistant in the hearing stated they were the driver in the collision in question with their own vehicle. This caused damage to their own vehicle and the parking garage door. They stated the matter is currently under review with ICBC and constitutes an insurance matter. They stated this has nothing to do with the damage deposit, and nothing directly to do with the tenant.

The landlord responded to say the tenant was responsible for this garage door damage. They gave this bill to the tenant, and in their written submission cited information from a residential tenancy information sheet. They also provided there is no reason for the guest of the tenant to be parking in the garage, where the parking is for tenants only.

Regarding the scratch to the tenant's vehicle, the landlord provided in their written piece that an investigation with police ensued when "a homeless" entered the garage "with knives & screwdrivers in his backpack."

In closing, the tenant provided that they have never been late with the payment of their rent. They just want to be left alone. In closing, the landlord provided that the tenant always presents attitude to others in the building. The landlord also presented that the incident with the tenant's car scratch was met with two acquaintances of the tenant visiting the landlord "to harass and attacked to [the] manager."

### Analysis

The *Act* s. 62(2) provides that:

The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and order that this Act applies.

- a. The *Act* s. 1 defines "intercom systems" as a "service or facility" that must not be restricted by the landlord, as per s. 27. The landlord stated that none of the names are on the intercom system; however, recent photos by the tenant show otherwise. I accept

this evidence from the tenant as showing the accurate picture. While there are legitimate safety risks with entry by unwanted parties into the building, that is a matter for the landlord to pursue with the offending parties who may include the other tenants in the building. In sum, the landlord shall ensure that the tenant's access to the intercom system, as well as proper identification on their mailbox, is in place. If not, the landlord is violating s. 27 of the agreement by restricting a service or facility from the tenant.

- b. The landlord presented that vehicles currently occupying the tenant's desired parking spaces will be moved in very short order. I note the tenancy agreement provides for a single parking space to the tenant; however, my understanding is that other arrangements for an extra inside space were made.

More recently, circumstances have changed with the deceased tenant. I find it was a reasonable safety measure to protect the property of the deceased tenant until such time as those vehicles could be properly distributed on that deceased tenant's behalf. With their imminent move out of the spaces, I urge the tenant to formally request access to these spaces in the form of a written request to the building owner. The manager shall – in good faith – relay or otherwise assist the tenant in this endeavour. Given the tenant was in recovery from a recent surgical procedure in the hearing, I find their need for easier access to the building is paramount.

The tenancy agreement must be properly updated – as indicated on page 2 of that agreement – to reflect 2 parking spots to the tenant. This is in line with s. 14 of the *Act*.

- c. I find the tenant's evidence reliable and fulsome in its description of the need for repairs in their kitchen. This is the refrigerator and the stove fan. The landlord is now aware of the issue and is bound by s. 32 of the *Act* regarding their obligation to repair. From the description of the tenant, I find the refrigerator does not meet health, cleanliness or sanitary standards.
- d. The matter of the parking garage door and the accident with the tenant's guest is a matter of insurance. I accept the tenant's own evidence that there was significant damage to their own vehicle. The landlord is stressing that s. 32(3) of the *Act* applies to this situation; however, the *Act* prescribes the method whereby a landlord and tenant may resolve their dispute, and this includes claims for monetary compensation. Should the landlord choose to pursue this, a proper dispute resolution process is in place for this purpose.

I appreciate the landlord wants to assign responsibility for the incident and work towards recovering the cost for door repair; however, the manner in which they are pursuing the matter infringes on the tenant's right to quiet enjoyment. This is outlined in s. 28 of the *Act*.

I do not assign responsibility to the landlord for the scratch to the tenant's car. Should the tenant wish to pursue the matter further, the police are the proper authority to undertake investigation of an incident of vandalism.

As the tenant was successful in this application, I find the tenant is entitled to recover the \$100.00 filing fee paid for this application. I authorize the Tenant to withhold the amount of \$100.00 from one future rent payment.

### Conclusion

Above I have set out an approach to the issues between the landlord and tenant. This is with consultation and reference to the *Act* and/or the tenancy agreement. The *Act* cannot be avoided, as set out in s. 5. I encourage both parties to establish a means of communication that is open and respectful. If necessary, I encourage the parties to engage others for this purpose if they need to distance themselves from the established pattern of strained communication.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: January 26, 2021

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Residential Tenancy Branch