



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Canadian Mental Health Association, BC Housing, CML  
Properties Management Corporation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC LRE

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Agents for two of the named corporate respondents attended.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As the parties were present service was confirmed. The parties present each testified that they received the respective materials and based on their testimonies I find each party in attendance duly served in accordance with sections 88 and 89 of the *Act*.

The agent of the corporate respondent CMHA provided the correct name of the correct entity and the corrected name is used in the style of cause for this decision.

The tenant objected to the attendance of AA, one of the agents of the corporate respondent, CMHA. Pursuant to section 74(4) of the *Act* and Residential Tenancy Rule of Procedure 6.7 a party may be represented by an agent. I found the agents'

testimony that they were authorized representatives of the corporate respondent to be sufficient proof of their authority to act. As such, I found no basis for exclusion of any of the parties.

The tenant stated at the outset of the hearing that they were unaware that they could be assisted by an advocate. The tenant was given multiple opportunities to adjourn the present hearing to seek assistance but stated repeatedly that they were prepared to proceed and declined to seek an adjournment of the hearing.

#### Issue(s) to be Decided

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Should the landlord's right to enter the rental unit be subject to conditions or suspended?

#### Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The tenant testified that this periodic tenancy began approximately 5 years ago. The current monthly rent is \$405.00. The rental unit is a suite in a multi-unit building.

The named corporate respondent CMHA is the landlord for the subject rental unit. The named corporate respondent CMLP is a company contracted by the strata corporation for the property to manage the building and is not a party to the tenancy agreement between the tenant applicant and the landlord CMHA.

The tenant submits that they would like a surveillance camera to be positioned in the common hall area outside of the rental unit to monitor people accessing the rental unit or causing noise from outside of the unit. In the alternative the tenant believes it is necessary to position a peep hole camera in the rental unit facing outwards into the common hallway area to monitor and record the traffic outside of the rental unit. The parties confirm that the tenant has set up a peep hole camera without the authorization of the strata council and in violation of strata rules.

The documentary submissions of the tenant consists of lengthy accounts of their experiences, correspondence with the landlord and others alerting them of the perceived issues as well as receipts for alarm systems they have employed in the past. The tenant believes that having a camera inside of the rental unit monitoring entrances into the unit are insufficient. The tenant submits that the measures they propose to record the activities in the hallway outside of the rental unit are necessary for personal safety and security.

### Analysis

A landlord is defined in section 1 of the *Act* as:

landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

I accept the submission of the parties that the named respondent CMLP is a management company retained by the strata corporation of the building and is not a party to any tenancy agreement between the applicant and the respondent CMHA. I accept that their duties are limited to management of the rental building, the common property and shared common property and the enforcement of applicable strata rules. I accept that there is no relationship between the respondents CMLP and CMHA beyond that of a strata management company and an organization managing one of the tenancies in a rental unit in the building. As such, I find that CMLP does not meet the definition of landlord as provided under the Act and dismiss them as a party to the present application.

In accordance with Residential Tenancy Rule of Procedure 6.6 the applicant bears the onus of proof on a balance of probabilities.

In the present case I find the tenant has not met their evidentiary burden to establish any portion of their claim. While I understand the tenant's feelings of concern about safety and security, I find little evidence that the landlord has violated the Act, regulations or tenancy agreement such that an order of compliance is appropriate.

I find the tenant's suggestions of what security measures are necessary to be unreasonable, prohibited by the strata rules and a potential violation of the privacy rights of others. The tenant cannot unilaterally breach the rights of others in the building or the landlord's ability to manage the building simply because of their subjective feelings of what would make them safe.

In a multi-unit building where there are many individuals residing together the rights of individuals to have quiet enjoyment of their rental unit, safety and security must be balanced against the privacy rights of others as set forth in the Personal Information Protection Act. While the tenant may have a legitimate interest in protecting their personal security with a camera this does not allow them to violate the privacy rights of others or to act in contravention of the strata rules for the property.

I find that the landlord's adherence and enforcement of the strata rules to be within their rights and capacity and not a breach of the Act, regulations or tenancy agreement such that an order is appropriate.

I find the position of the tenant's application seeking authorization to suspend or set conditions on the landlord's right to enter the rental unit to have little evidentiary basis. I find the tenant's submissions to be insufficient to establish that the landlord has breached their rights under the Act in accessing the rental unit such that an order is necessary. I find it appropriate to remind the parties that pursuant to section 29 of the *Act* a landlord's right to enter a rental unit that is subject to a tenancy agreement are restricted and that parties must comply with the provisions of the *Act*.

Consequently, I dismiss the tenant's present application in its entirety without leave to reapply.

Conclusion

The respondent CMLP is not a landlord under the Act and they are removed as a party to this application.

The tenant's application is dismissed without leave to reapply.

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: April 6, 2021

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Residential Tenancy Branch