



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, LAT, OLC, FFT

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 change the locks to the rental unit; an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing, each gave affirmed testimony, and the landlord was assisted by a person to assist with translation for the landlord when required.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the tenant established that the landlord's right to enter the rental unit should be limited or allowed conditionally?
- Has the tenant established that the tenant should be permitted to change the locks to the rental unit?
- Has the tenant established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically by permitting the tenant to have house plants?

Background and Evidence

The tenant testified that this fixed term tenancy began on January 12, 2020 and reverted to a month-to-month tenancy after the first year, and the tenant still resides in

the rental unit. Rent in the amount of \$1,200.00 per month is payable on the 1st day of each month, which the tenant pays on the last day of each month in advance for the following month. There are no rental arrears. A copy of the tenancy agreement has been provided as evidence for this hearing which specifies a security deposit in the amount of \$1,200.00, however the tenant testified that he actually paid \$600.00, and no pet damage deposit was collected. The rental unit is a basement suite. The landlord does not reside on the property and the upper level of the home is currently vacant.

The landlord has never invoked his right to inspect the rental unit monthly, but on May 14, 2021 the landlord was being aggressive during a confrontation over house plants, and the landlord wanted the tenant to move out. The parties had a confrontation because the landlord thought he could enter the rental unit, but the landlord became violent and the tenant called police, who lead the landlord off of the property.

The tenant asked the landlord to attend the rental unit so that the tenant could give him something in writing as suggested by the Residential Tenancy Branch. Copies of letters to the landlord respecting the tenant's right to quiet enjoyment have been provided for this hearing. The landlord tried to invoke his right to inspect, but without notice to the tenant.

The landlord and family have been peering in the tenant's window. When the landlord texted the tenant the first time about having house plants, a family member peered in the window with hands up to remove the reflection. The landlord also did so again, sometimes to get the tenant's attention, but it's a privacy issue. Strings of numerous text messages exchanged between the parties have been provided for this hearing, as well as video of the landlord and family peering in.

The tenant wants the landlord to be ordered to comply with the law by scheduling an inspection with the notice required so there are no issues going forward.

The tenant has also provided photographs of the door between the 2 rental units, showing that a small piece of wood has been placed on the door and door jam to prevent entry from the other side. The tenant seeks an order permitting the tenant to change the locks; he wants peace of mind.

The landlord testified that on May 14, 2021, the day the tenant called police, the landlord texted the tenant to say that the landlord intended to enter. The landlord also told the tenant that his house plants would damage the new home, and wanted the tenant to move the house plants outside. The tenant and landlord agreed to meet, and the tenant gave the landlord a letter.

The tenant is younger than the landlord, yet the tenant is accusing the landlord of being violent. The landlord and tenant were arguing at the door, and the tenant came outside.

The landlord further testified that he looked in the window of the rental unit so that he could take photographs of the tenant's plants. That was on May 22, 2021, but no other time.

The tenant leaves fans on all the time instead of opening a window. The landlord is an electrician and fans may be damaged. The landlord is concerned about electric overload and humidity.

The landlord's photographs in evidence of the door between the 2 units contains a caption which states, "This is how I have the door locked. Once the door is locked, the tenant can not enter into my side." The side of the door that is on the vacant or landlord's unit has a twist-type door-knob lock and a hand-written sign that says: "Rental Unit – Please No Knock."

Analysis

I have reviewed the tenancy agreement, and there is nothing written therein about having house plants. The tenancy agreement does specify that internet, heating and hydro are included in the rent. A landlord may include a term that prohibits house plants for any reason, whether it be due to fear of humidity or hydro usage, and that could be considered a material term of the tenancy agreement. However, since nothing about house plants is contained in the tenancy agreement, I find that it is not a material term, and the tenant is permitted house plants.

The *Residential Tenancy Act* specifies that a landlord may inspect a rental unit monthly, however prior to such an inspection, the landlord must give the tenant at least 24 hours written notice. That notice must indicate the date, time and reason for entering. I order the landlord to comply with the *Act* in that regard. The *Act* states specifically:

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (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.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

I hereby order the landlord to limit any attempt to enter the rental unit except in accordance with Section 29 above.

The tenant has also applied for an order permitting the tenant to change the locks to the rental unit, and both parties have provided photographs of the door between the 2 units. It's clear to me that the landlord is confident that by locking the vacant or landlord's side, that unit is safe, but a new tenant may move into the other unit, and the locking mechanism on the tenant's side is not sufficient. I order that the tenant be permitted to put a lock on the tenant's side of that door.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee. I hereby grant a monetary order in favour of the tenant in that amount and I order that the tenant be permitted to reduce rent by that amount for a future month, or may file the order with the Provincial Court of British Columbia, Small Claims division for enforcement.

Conclusion

For the reasons set out above, I hereby order the landlord to comply with Section 29 as set out above, and refrain from entering the rental unit except in accordance with that Section of the *Residential Tenancy Act*.

I further order the landlord to allow the tenant to keep indoor house plants.

I further order that the landlord refrain from peering in windows, and prevent family members and guests on the property from doing so.

I further order that the tenant be permitted to install a lock on the tenant's side of the door that opens into another unit.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00, and I order that the tenant be permitted to reduce rent for a future month by that amount or may otherwise recover it in the Provincial Court of British Columbia, Small Claims division as an order of that Court.

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: June 28, 2021

Residential Tenancy Branch