



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      LRE, LAT, OLC, MNDCT, FFT

### Introduction

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

- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- authorization to change the locks to the rental unit, pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62; and
- a monetary order of \$1,381.46 for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord, the tenant, and the tenant's two minor children attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 70 minutes.

The landlord and tenant provided their names, spelling, and email addresses for me to send this decision to them after the hearing.

The landlord stated that he owns the rental unit and confirmed the rental unit address.

The tenant confirmed that her two children are minors, aged 9 and 11 years old. They observed only and did not testify at this hearing.

At the outset of this hearing, I informed both parties that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure*. The landlord affirmed, under oath, that he would not record this hearing. The tenant affirmed, under oath, that neither she, nor her two children, would record this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

I informed both parties that I could not provide legal advice to them. I notified them that they could hire lawyers to obtain legal advice. I informed them that they could consult the *Act*, *Regulation*, Policy Guidelines and *Rules of Procedures* on the RTB public website. I notified them that they could settle their tenancy issues privately or at an RTB hearing. Both parties attempted to settle their future RTB hearing applications, regarding an end to tenancy, but were unable to do so.

The landlord confirmed receipt of the tenant’s application for dispute resolution hearing package and the tenant confirmed receipt of the landlord’s evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant’s application and the tenant was duly served with the landlord’s evidence.

The landlord stated that he received the tenant’s evidence late, between 5 and 16 days prior to this hearing, by email. He said that he did not have time to review it all and respond to it properly. However, he confirmed that he wanted to proceed with this hearing because he did not want to delay the process or wait for another hearing date, which could be months into the future.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant’s application to remove the names of her two minor children from the style of cause, contained on the cover page of this decision. Neither party objected to this amendment during this hearing.

#### Preliminary Issue – Severing the Tenant’s Monetary Application

Rule 2.3 of the Residential Tenancy Branch *Rules of Procedure* allows me to sever issues that are not related to the tenant’s main urgent application. The tenant applied for five different claims in her application. At the hearing, both parties were able to settle three of the tenant’s five claims.

However, after 70 minutes in the hearing, there was not enough time to hold a hearing where both parties could provide their submissions and go through their evidence, in order for me to make a decision regarding the tenant's monetary application.

I informed the tenant that she was given a priority hearing date because she asked for urgent claims related to an order restricting the landlord's right to enter the rental unit, authorization to change the locks to the rental unit, and an order requiring the landlord to comply with the *Act, Regulation* or tenancy agreement. I informed the tenant that her monetary claim was a lower priority, non-urgent application.

Therefore, I informed the tenant that her monetary application for \$1,381.46 was dismissed with leave to reapply. I notified her that she could file a new application and pay a new filing fee, if she wanted to pursue this claim in the future. The tenant confirmed her understanding of same.

### Settlement Terms

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute, except for the tenant's monetary application.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the tenant's monetary application:

1. The landlord agreed, at his own cost, to provide the tenant with keys to access the front door of the rental unit, and to retain a copy of the keys for his own access;
2. During this hearing, the tenant verbally provided the landlord with the 4-digit electronic code to access the front door of the rental unit;
3. Both parties agreed to abide by section 29 of the *Act* for the remainder of this tenancy;
  - a. The landlord agreed to first give the tenant at least 24 hours' written notice prior to entering the rental unit and the tenant agreed to provide the landlord with access to the rental unit;

- b. The landlord is entitled to complete inspections of the rental unit every month, as per section 29 of the *Act*, which does not include emergency access;
- c. The landlord has previously retained a third-party company of retired police officers, to access the rental unit with the landlord to complete inspections;
- d. The landlord is required to access the rental unit to complete an inspection every 90 days for insurance purposes;
- 4. The tenant agreed to call the police and deal with her criminal complaints in the Court system, since the RTB has no jurisdiction over criminal issues or the Criminal Code of Canada;
- 5. The tenant agreed that this settlement agreement constitutes a final and binding resolution of her application at this hearing, except for her monetary application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties, except for the tenant's monetary application. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, except for the tenant's monetary application.

#### The Act and Filing Fee

During this hearing, I informed both parties that they are required to abide by sections 29, 30 and 31 of the *Act*, which states the following:

#### ***Landlord's right to enter rental unit restricted***

*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).*

***Tenant's right of access protected***

*30(1) A landlord must not unreasonably restrict access to residential property by*

*(a) the tenant of a rental unit that is part of the residential property, or*

*(b) a person permitted on the residential property by that tenant.*

*(2) A landlord must not unreasonably restrict access to residential property by*

*(a) a candidate seeking election to the Parliament of Canada, the Legislative Assembly or an office in an election under the Local Government Act, the School Act or the Vancouver Charter, or*

*(b) the authorized representative of such a person who is canvassing electors or distributing election material.*

***Prohibitions on changes to locks and other access***

*31(1) A landlord must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.*

*(1.1) A landlord must not change locks or other means of access to a rental unit unless*

*(a) the tenant agrees to the change, and*

*(b) the landlord provides the tenant with new keys or other means of access to the rental unit.*

*(2) A tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the change.*

*(3) A tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to, or the director has ordered, the change.*

The filing fee is a discretionary award usually issued by an Arbitrator after a full hearing on the merits of the applicant's application and a decision is made. Both parties settled this application, except for the tenant's monetary claim, and I was not required to conduct a full hearing or make a decision on the merits of the tenant's application. Accordingly, I dismiss the tenant's application to recover the \$100.00 filing fee, without leave to reapply.

### Conclusion

I order both parties to comply with all of the above settlement terms.

The tenant's application for a monetary order of \$1,381.46 for compensation for damage or loss under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

The tenant's application to recover the \$100.00 filing fee 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: February 01, 2022

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Residential Tenancy Branch