



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, FFT

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The tenant applied on May 16, 2022 for:

- an order for the landlord to comply with the Act, regulation, and/or the tenancy agreement; and
- the filing fee.

The hearing was attended by the tenant, the co-tenant, and the landlord's agent, EJ, who is the property manager. Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

EJ confirmed the landlord received the tenants' Notice of Dispute Resolution Proceeding (NDRP) and evidence, and that they had not served or submitted responsive evidence.

### Preliminary Matter

In the hearing, the parties agreed the landlord's legal name was different from that named in the dispute, and neither party objected to the application being amended accordingly. Therefore, I have used the landlord's legal name on the cover page of this decision. This amendment is in accordance with section 64(3)(c) of the Act.

### Issues to be Decided

- 1) Are the tenants entitled to an order for the landlord to comply with the Act, regulation, and/or the tenancy agreement?
- 2) Are the tenants entitled to the filing fee?

### Background and Evidence

Those present agreed on the following particulars of the tenancy. It began May 1, 2009; rent is \$2,391.11, due on the first of the month; and the tenants paid a security deposit of \$1,053.53, which the landlord still holds.

The tenant testified that they use the rental unit and its common spaces as live-work space, as they are artists. The tenant testified that a main reason they moved into the unit was because of the availability of the common spaces, which include a gym, an amenity room, and a workshop, all of which the tenant testified they had used regularly prior to their 20-month closure.

The tenant testified that they have had 5 property managers who have refused to deal with their concerns about the lack of access to the common spaces, and that the tenant's correspondence is often unanswered.

The tenant testified they used comparable spaces in the neighbourhood, and provided information on the rates charged by those spaces.

Property manager EJ confirmed that the common spaces had been closed for a period at the start of the pandemic, partly due to the pandemic and partly to allow for upgrades to be done, to make the spaces "bigger and better."

EJ testified that based on the landlord's calculation, the landlord offered all tenants \$1,200.00 due to the temporary closures, which the subject tenants refused. EJ testified that in an email the tenant had said that the amount should be \$1,400.00; EJ testified that the tenant was then offered \$1,400.00 in compensation, but refused it.

EJ testified that the common spaces were closed as follows:

- the amenity room was closed October 21, 2019 to March 13, 2020, and closed for a further period in March 2020; and
- the gym and the workshop were closed from October 21, 2019 to June 12, 2021.

The tenant testified that the spaces were closed before the pandemic, not during, as stated by EJ.

The tenant and EJ disagreed on the value of the spaces, based on a disagreement about the exclusivity of use of the spaces.

The tenant and EJ agreed that the common spaces are now open for use.

### Analysis

Section 62 of the Act permits an arbitrator to may make any order necessary to give effect to the rights, obligations and prohibitions under the Act, including an order that a landlord or tenant comply with the Act, the regulations or a tenancy agreement and an order that the Act applies.

The tenant applied for an order for the landlord to comply with the Act, regulation, and/or the tenancy agreement; however, the tenant and EJ agree that the common spaces are now open. The tenant has provided testimony and documentary evidence that relates to monetary compensation or a rent reduction. Though, the tenant has not identified an amount of compensation or rent reduction they seek from the landlord.

As the tenant has not identified a part of the Act, regulation, and/or the tenancy agreement they want the landlord to comply with, I dismiss the tenant's application.

The tenants are at liberty to apply for monetary compensation or a rent reduction.

As the tenant is unsuccessful in her application, I decline to award the filing fee.

### Conclusion

The tenant's claims are dismissed.

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: October 12, 2022

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Residential Tenancy Branch