



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, LRE, OLC, FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking the following:

- an order cancelling a notice to end the tenancy for the landlords' use of property;
- an order limiting or setting conditions on the landlords' right to enter the rental unit;
- an order that the landlords comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and
- to recover the filing fee from the landlords for the cost of the application.

The tenant attended the hearing with an Advocate. The landlords were represented at the hearing by an agent. The tenant and the landlord's agent each gave affirmed testimony and were given the opportunity to question each other and to give submissions.

At the commencement of the hearing, the parties agreed that a Mutual Agreement to End Tenancy has been signed by the landlord and the tenant on March 24, 2023 effective on August 15, 2023 at 12:00 p.m., and each party has provided a copy for this hearing. The landlord's agent requests an Order of Possession, which was not disputed by the tenant. Therefore, I dismiss the tenant's application to cancel the Two Month Notice to End Tenancy for Landlord's Use of Property, and I grant an Order of Possession in favour of the landlord effective at 12:00 p.m. on August 15, 2023, and the tenancy will end at that time. The parties confirmed that this agreement was made on a voluntary basis and that the parties understood the nature of this settlement of that matter.

The only evidence provided by the landlords is a copy of the Mutual Agreement to End the Tenancy. The tenant advised that all of the tenant's evidence has been provided to the landlords. The landlords' agent did not dispute that, and all evidence provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

The issues remaining to be decided are:

- Has the tenant established that the landlords' right to enter the rental unit should be suspended or allowed conditionally?
- Has the tenant established that the landlords should be ordered to comply with the *Residential Tenancy Act*, regulation or tenancy agreement?

### Background and Evidence

**The tenant** testified that there have been several tenancy agreements signed by the parties which have been provided as evidence for this hearing. The tenant first moved into the rental unit in 2012 and still resides in the rental unit. The last tenancy agreement commences on April 1, 2022 and reverts to a month-to-month tenancy after March 31, 2023. Rent in the amount of \$1,420.00 is payable on the 1<sup>st</sup> day of each month, and there are no rental arrears. The parties agreed that no rent will be payable for April to August 15, 2023. The tenant paid a security deposit to the landlords in the amount of \$587.50 as well as a pet damage deposit in the amount of \$100.00, both of which are still held in trust by the landlords.

The tenant further testified that the landlord was arriving at the rental unit unannounced frequently, which was starting to get chaotic. The landlord showed up, sent people to deal with a tree in the back yard but couldn't get access so they broke into the fence, which the tenant had to repair. Photographs have been provided for this hearing. On May 30, 2023 the landlord called another arborist when the tenant wasn't home. The landlord gave notice by email that day saying he would be there and someone would have to let him into the back yard, but there was not enough notice for the tenant to get time off work. This has happened on more than 1 instance.

The landlord approached the tenant many times to sign an agreement to end the tenancy earlier than the tenant wanted. There were a couple of attempts to force the tenant to leave against the tenant's will, always accessing the property to do that, and would show up at random times.

The tenant seeks an order that the landlords provide sufficient notice for the landlords and/or contractors to access the rental property.

**The landlords' agent** testified that rather than mailing, the landlords' agent hand-delivered documents to the mail box at the rental unit. That happened a couple of times and a surveyor was also there, as well as a guy to check trees. The landlords sent an email to the landlords' agent, which the landlords' agent forwarded to the tenant. The landlords' agent went to deliver the mail twice, but was on the street and did not go inside. The tenant has already been compensated for that.

### Analysis

The *Residential Tenancy Act* is clear that a rental unit is the tenant's home, and the landlords have an obligation according to the law to provide the tenant with quiet enjoyment of the rental unit, free from unreasonable disturbance:

#### **Protection of tenant's right to quiet enjoyment**

**28** A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

The law also states that a landlord may not enter a rental unit without giving sufficient written notice:

#### **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).

To send an email notification the day of entry, that the tenant may or may not receive prior to the entry, is contrary to the law. Any contractors, arborists, agents of the landlords or other personnel on behalf of the landlords are also included.

The tenant testified that there were frequent unannounced visits, which was not disputed by the landlords' agent. Therefore, I order the landlords to comply with Sections 28 and 29 as set out above, and to schedule visits by other personnel giving the same notice as required by the landlords, whether or not the landlords accompany the personnel.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenant in that amount. The landlords must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

### Conclusion

For the reasons set out above, and by consent, the tenant's application for an order cancelling a Two Month Notice to End Tenancy for Cause is hereby dismissed.

By consent, I hereby grant an Order of Possession in favour of the landlords effective at 12:00 p.m. on August 15, 2023, and the tenancy will end at that time.

I order the landlords to comply with Sections 28 and 29 as set out above, and to schedule visits by other personnel giving the same notice as set out in the *Act*, whether or not the landlords accompany the personnel.

I hereby grant a monetary order in favour of the tenant as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

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 04, 2023

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Residential Tenancy Branch