# Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

## DECISION

**Dispute Codes** MNDCT, FFT

## Introduction

The Tenants (hereinafter, the "Tenant") filed an Application for Dispute Resolution on August 25, 2022 for monetary loss or other money owed. They also applied for reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the "*Act*") on May 18 and May 29, 2023.

Both parties attended the hearing, and I afforded each the opportunity to ask questions on the hearing procedure.

At the outset of the hearing, both parties confirmed they received service of the evidence of the other. On this assurance, I proceeded with the hearing as scheduled. The matter was adjourned to afford the parties maximum opportunity to make submissions.

## Preliminary Matter –timeline for this decision

While the *Act* s. 77(1)(d) sets a 30-day time limit for a decision of the delegated decision maker, ss. (2) states that authority is not lost, nor the decision invalidated, if a decision is given past the 30-day period. I reached this decision through review and evaluation of all testimony, and hundreds of pages of evidence submitted by both parties for this hearing. The Landlord provided 140 separate documents for this hearing. There were hundreds of pages of evidence.

The parties' right of due process, entailing a thorough consideration of all evidence, and my deliberation of the applicability of the law, outweighs the need for a 30-day time limit.

Also, this was a matter of a former tenant's right to compensation for what they alleged were breaches to their quiet enjoyment of their rental unit in a tenancy that had already ended. This did not concern an eviction or an end of tenancy that are matters of more immediate human consequence.

## Issues to be Decided

- Is the Tenant entitled to compensation for monetary loss/other money owed pursuant to s. 65 of the *Act*?

- Is the Tenant entitled to reimbursement of the Application filing fee pursuant to s. 72 of the *Act*?

## Background and Evidence

The Landlord and Tenant each provided a copy of the tenancy agreement they had in place. The tenancy started on July 16, 2021, for the fixed term ending on August 31, 2022. The tenancy was set to revert to a month-to-month tenancy after that.

The Tenant paid rent of $2,700 and paid a security deposit amount of $1,350. The Tenant drew attention to a specific clause in the tenancy agreement that stated they would contact the "Landlord's agent" for any emergencies. The Tenant described contacting this person "for any issues with the condo." This agent, who attended the hearing, was explicit on the point that they were the Landlord's Real Estate Agent, and had no duty to the Tenant.

The Landlord served the Tenant with a Two-Month Notice to End Tenancy for Landlord's Use of Property. This set the final end-of-tenancy date at August 31, 2022.

i. notification of showings

The Tenant described that they heard about a pending sale for the rental unit from the Landlord's Real Estate Agent through a phone call. The Landlord sent an email to the Tenant on May 9, 2022 that the rental unit will be sold. This noted that the Real Estate Agent would contact the Tenant directly about any showings necessary for the sale, and the need for photos of the rental unit.

The Tenant took issue with the Landlord needing photos of the current state of the rental unit, considering this a privacy violation. The Real Estate Agent assured them this was not, and that showings could happen anytime from "8AM to 9PM daily."

In a written submission, the Tenant provided a day-by-day account of the Landlord and/or Real Estate Agent communicating with the Tenant on showings, the Tenant's ability to stay in the unit for the showings, what can be shown in pictures to be posted for the sale, incidental repairs in line with sales, and the preferred method of notification from the Landlord/Real Estate Agent.

On a Monetary Order Worksheet they completed for this hearing, the Tenant listed 7 separate instances of the Landlord/Agent's entry without proper notice. In their written submission the Tenant specified that they requested "email writing" for all communication. They listed the following dates, with information set out in their written timeline:

- May 11: in the written submission the Tenant describes the Real Estate Agent notifying them by email of their visit for the purpose of taking pictures of the rental unit for sales material.
- May 13: the first showing, with notice by the Real Estate Agent by email. Via text, the Real Estate Agent stated they would be there at 5:45. The Landlord in the hearing noted the Tenant seemed grateful for this communication, by stating "thank you".
- May 14: a second showing, with notice given by the Real Estate Agent by email.
- May 15: another showing with notice given by the Real Estate Agent by email.
- May 16: another showing with notice given by the Real Estate Agent by email
- May 17: another showing, notified by email. The Tenant described feeling "harassed and pressured into stepping out [from the rental unit] during showings."
- May 19: another showing, notified by email.

The Tenant provided a prior tribunal decision they found wherein an arbitrator granted $500 for an "illegal entry." The Tenant described this $3,500 piece of their claim "for failure to properly notify for showings."

The Tenant provided one exhibit in which they compiled communication from the Real Estate Age to coordinate showings, this after they specified only email communication. The Tenant also questioned the motivations behind the Real Estate Agent thanking them for scheduling.

With this amount in mind, for each of the meetings listed above, the Tenant seeks $500 “per failure to provide proper notice for a total of $3500.” The Tenant described having to clean and organize the rental unit with very short notice. Otherwise, they also described that they understood that the Real Estate Agent was more of an agent in a different capacity for the Landlord. It was not until May 29 that the Real Estate Agent clarified with the Tenant that they were not exclusively a Landlord agent for managing all aspects of the rental unit.

The Landlord submitted a record of their communication with the Tenant. I have excerpted the following relevant points in relation to this point of the Tenant’s claim:

- May 9: the Landlord personally notified the Tenant via email of the rental unit being listed for sale, notifying them that the Real Estate Agent will be contacting the Tenant directly about any viewings of the property. Additionally, the Landlord pledges to “work out a showing schedule that’s comfortable for [the Tenant]”, and stating there will be only one showing per day: weekends 3pm and weekdays at 6pm, by appointment only. Further: “[Real Estate Agent] will always inform you if there is a request for a showing that [they] will always inform you beforehand of a visit.”
- May 10: note they will notify the Tenant “in writing, by text and or voice mail on phones for showings whenever we have a request for a showing” – the Landlord also pledged to follow “the required 24 hours notice each time and agent or buyer requests to show at the request time of the agent and buyers choice”.
- May 12: the Real Estate Agent notifies the Tenant of the posted sale listing, and that they turned down an initial request for a showing, “due to official notice”, listing the showings times they will schedule on any weekend, as well as the upcoming requests for showings already in at that point, asking for the Tenant’s confirmation on these times
- May 13: the Real Estate Agent adjusted the showing request “prep time” as per the Tenant’s request – the Landlord also clarified the role of an inspector, who any prospective purchaser may hire to complete a thorough check of all aspects of the rental unit
- May 16: the Real Estate Agent notified the Tenant of a prospective purchaser’s request for walk-through inspection without the Tenant, or the Real Estate Agent, present – the following day the Tenant refused this request, noting “We will continue to cooperate with the sale of the apartment.”
- May 21: the Landlord personally communicates to the Tenant that there will no more showings for the next 5 days.

In the hearing, the Landlord clarified that, during the sale process, the Real Estate Agent was acting as the Landlord's agent in that process. At all stages, they were providing notice to the Tenant on behalf of the Landlord. Referring to the tenancy agreement, they submitted that the specific clause outlining this in the tenancy agreement implies "real estate agent" as well.

ii. Tenant's quiet enjoyment during the sale

The Tenant set out the period from May 9 to June 14 as the time of the Landlord's sale of the rental unit. This period for them was "extremely stressful", marked by their "hard time concentrating on work", and fatigue from a medical condition "especially during stressful times."

The tasks required of them during this time were to clean and organize the rental unit with very short notice, and calls to the Residential Tenancy Branch and other tenant resources to understand their rights.

Additionally, the Landlord sent the Tenant a mutual agreement to end tenancy, which to the Tenant implied that they had already agreed to end the tenancy. When they asked the Landlord why this was sent to them, they did not receive a response from the Landlord until 17 days later.

The Tenant seeks the amount of $3,261, which is the full amount of rent they paid during this time, being "a disruption of [the Tenant's] right to quiet enjoyment for these dates."

In the hearing, the Tenant described being "in the dark" during the sales process. This continued until the new owner contacted them, after the completed sale, in mid-June. The Tenant also cited the lack of communication with the Real Estate Agent and their desire to stay in the rental unit during showings. They also felt the Landlord accused them of harassing prospective buyers or their agents during showings, as set out in message to them regarding the showings of May 9 and May 17.

In their timeline, the Tenant noted they had no response from the Landlord on their May 29 inquiry to the Landlord about the completed sale. There was similarly no response to the Tenant's follow-up email on May 31. From June 1 to June 9, the Tenant submits that they had no information on whether the tenancy would be ending, and when the

new owner's possession date was. During this time the Tenant was unsure if they had to find a new apartment soon.

On June 9, the Tenant received a copy of the Two-Month Notice via email, and confirmation from the Real Estate Agent that they attached a copy of the Two-Month Notice to the door of the rental unit. The Tenant described this document was "not valid as the wrong checkbox for delivery was ticked on the form and it was not delivered by the landlord or the landlord's agent." The Tenant noted their feeling that they were harassed by the Real Estate Agent at this time.

During this time, the Tenant expressed their concerns to the Landlord about the Real Estate Agent having a key to the rental unit. They initially received no response to this question from the Landlord. On June 14, The Landlord responded to say the Real Estate Agent was authorized to have a key and they were aware of the legal requirement for any entrance into the rental unit.

In the copies of the correspondence the Landlord provided for evidence, the following passages relate to points raised by the Tenant:

- May 9: the Real Estate Agent at the outset informs the Tenant that they may choose to be present during showings "though speaking to the prospective buyers can be viewed as a problem" and "We are trying very hard to keep you happy."
- May 9: the Landlord stressed the need to use current photos of the rental unit in a furnished and occupied state – the Tenant then requested to review photos before the Landlord uses them for the purpose of advertising the rental unit for sale
- May 10: the Tenant confirmed they checked with a tenant-resource-advisory centre who informed them that the Landlord's need for photos with personal property in it is allowed – The Tenant stated: "We'd like to apologize if this has caused anyone stress or inconvenience, we do want to make this easy for you and have no interest in getting in the way of the sale."
- May 10: the Real Estate Agent confirmed they would communicate by email, and confirmed any end-of-tenancy notice would entail "a minimum 2 months notice to move"
- May 12: the Real Estate Agent notifies the Tenant of showings they cancelled due to insufficient notice – the Real Estate Agent also re-stated that the first two weeks of a sales process are "always the most busy as the most interested and

serious call first", and informed buyers' agents that the Tenant would like to remain in the rental unit

- May 13: the Real Estate Agent informed the Tenant of the process with an inspection, and the need for the inspector to complete the work "privately and independently"
- May 17: the Landlord (as appears in a notation on their phone record) was notified by the "current owner" that the Tenant followed them around everywhere
- May 18: the Tenant notified the Real Estate Agent of "feeling quite drained from the showings" and requested rescheduling – 3 minutes later the Real Estate Agent canceled the showing in question
- May 20: the Real Estate Agent confirmed they would not schedule any showing when the Tenant was not home because the Tenant always wanted to be present
- May 21: the Landlord directly contacted the Tenant and informed them of the pending fixed-term tenancy end on August 31, and they will not be extending the tenancy agreement – they attached a mutual agreement to end tenancy form, signed by the Landlord, that "[the Landlord] would like [the Tenant] to sign as well to acknowledge the end of the lease"
- May 21: the Tenant stated their confusion with this process, and the tenancy agreement would carry on as month-to-month unless there is a mutual agreement
- May 24: the Tenant confirmed they will not sign the mutual agreement
- May 29: the Real Estate Agent confirmed they could not give the Tenant any information about the sale of the rental unit, as discovered by the Tenant on a "real estate website" – the Real Estate Agent cited "privacy regulation and laws" and stated "I am not your landlord"
- June 9: the Real Estate Agent informs the Tenant that they delivered "legal notice [*i.e.*, the Two-Month Notice] on behalf of your landlords"
- June 9: the Tenant responded to confirm that the Real Estate Agent is not the Landlord, stating their uncertainty as to why the Real Estate Agent delivered the Two-Month Notice in this way, when there was registered mail as well as email containing a copy
- June 11: the Tenant requested clarification directly from the Landlord on whether they will be paying rent to new purchasers, as well as the set of keys used by the Real Estate Agent
- June 12: the Tenant requested clarification on what was happening to the keys held by the Real Estate Agent
- June 13: the Landlord clarified they would never give permission to anyone to enter without proper notice to the Tenant

- June 13: the Landlord responded to say that the agency is holding the keys in trust for the new owners –
- June 13: the Real Estate Agent provided information to the Landlord that they are the Real Estate Agent, and "as such is entitled to our Keys". Further: "you [i.e., the Tenant] are only entitled to your own keys" -- the Landlord forwarded this verbatim message to the Tenant on June 14

In the hearing the Tenant summarized each of the points that they felt contributed to the violation of their right to quiet enjoyment. This centred on the showings, the lack of communication concerning the end of the tenancy, the Real Estate Agent's holding of keys.

The Landlord, in response, referred to specific points of their communication. The Real Estate Agent restated their role as representing the Landlord in the sales process. The Landlord also referred to the personal hardship they were going through during this time.

iii. Tenant's quiet enjoyment for remainder of the tenancy agreement

The Tenant noted the final date of communication with the Landlord was July 8, 2023. The Tenant's new Landlord (*i.e.*, the new owner) contacted them to discuss things on July 9, 2023. This new landlord informed the Tenant on July 13 that they had possession, as the new owner, since the end of June. The Tenant noted specifically that the new owner never mentioned anything about being followed around.

In their written submission, the Tenant set out that the last email they received from the Landlord was on June 25. The Landlord and the Real Estate Agent did not inform the Tenant how the property transfer would occur. The new owner contacted the Tenant to confirm their ownership. This date was July 9.

The Tenant submits this period to them also was a loss of their right to quiet enjoyment. That is June 15 to July 30, and the full month of July, totalling $4,140. For compensation, the Tenant specifically cites no communication from the Landlord about the remainder of the tenancy agreement, and the Landlord's insistence on the Real Estate Agent holding the rental unit key.

On their timeline, the Tenant noted the following relevant information:

- June 11: no response from the Landlord about the question of the Real Estate Agent holding on to the keys
- June 12: the Tenant asked again, with a pending trip away from the rental unit
- June 13: the Landlord informed the Tenant they were entitled to "[the Tenant's] own keys", with the Real Estate Agent holding the keys "in trust, at our request"
- July 9: the new owner calls to the Tenant
- July 13: the new owner visits to the rental unit, informing the Tenant that they had possession since the end of June
- August 17: the Tenant moves out from the rental unit and returns the keys to the new owner

In the hearing, the Tenant re-stated that they only learned of the rental unit's sale via a real estate website. This was confirmed when they were served the Two-Month Notice, and "we had no responses, we just got silence until the proper form arrived." Here, the final piece was "not knowing what was happening" and this induced stress for the Tenant. They also cited the "extension of the negative atmosphere/communication that had established during the sale."

The Landlord responded again to specific points raised by the Tenant. They advised the Tenant repeatedly via email that the Real Estate Agent was authorized to hold the keys for the rental unit. They pointed to the Tenant's acknowledgement of this on June 14.

The Landlord pointed back to their original communication to the Tenant on May 9, paraphrasing that by saying 'no matter what, the tenancy end of August 31 would not be affected'. To the Landlord, their statement equating to 'your lease will be honoured' means that the Tenant would never be kicked out before the end of the lease. They pointed to the Tenant as asking for the Two-Month Notice.

More broadly, the Landlord explained their communication to the Tenant during this time and stemming from their own personal crisis that occurred during this time. They submit there was "never any non-transparency" and "never any threat."

As a rebuttal in the hearing, the Tenant stated they had no responses from the Landlord to their queries: "we just got silence until the proper form arrived."

## Analysis

Under s. 7 of the *Act*, a landlord or tenant who does not comply with the legislation or their tenancy agreement must compensate the other for damage or loss. Additionally, the party who claims compensation must do whatever is reasonable to minimize the damage or loss. Pursuant to s. 67 of the *Act*, I shall determine the amount of compensation that is due, and order that the responsible party pay compensation to the other party if I determine that the claim is valid.

To be successful in a claim for compensation for damage or loss the Applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

i. <u>notification of showings</u>

The *Act* s. 29 sets the restrictions on a Landlord's right to enter a rental unit. A landlord must not enter a rental unit, unless one of the following applies:

- a tenant gives permission at the time of entry, or not more than 30 days before the entry

- at least 24 hours before an entry, a landlord gives a tenant written notice, including:
    - the purpose for entering, which must be reasonable
    - the date and time of entry, which must be between 8am and 9pm unless a tenant agrees otherwise

I find there was no breach by the Landlord with the specific notifications/dates listed by the Tenant. I find the Tenant stated their preference for email communication, and they did not prove that the Landlord either refused to abide by that preferred mode of communication, or consistently avoided doing so.

Aside from this, I find the Landlord was fully aware of the Tenant's reservations about privacy and need for full information each step of the way. I find consistent communication notifying the Tenant in advance each time, with the Tenant even declining to accommodate a showing on at least one occasion, with no hint of recrimination or conceit from the Landlord on that request from the Tenant. As the Landlord stated to the Tenant at the outset on May 9, the Landlord limited showings, set specific times for doing so, and notified the Tenant well in advance of scheduled

showings. I find occasional text messages, likely necessitated by the Landlord's need to communicate instantaneously, do not constitute any wavering from the written form of notification that was the Landlord always informing the Tenant of showings well in advance. My view is that the Landlord, via the Real Estate Agent, communicating with the Tenant constitutes a courtesy in the form of all parties' instant awareness of changing appointments or special needs.

I find, quite simply, there was no breach by the Landlord from what the Tenant presented in their evidence and statements in the hearing. The reason for each visit was reasonable where the Landlord was working to sell the rental unit, with the Tenant fully aware of that purpose.

Aside from this, the Tenant apparently takes issue with not being aware of the Real Estate Agent's role, either from the outset as a contact representative of the Landlord on matters such as repairs, or more formally as the Real Estate Agent in the sales process. I note "landlord" as defined in s. 1 of the *Act*, encompasses

> the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord. . . exercises powers and performs duties under this Act, [or] the tenancy agreement. . .

The Tenant did not establish how messaging to/from the Real Estate Agent -- who I find acted on the Landlord's behalf in various capacities during the tenancy – was a violation of the *Act* or the tenancy agreement. The Landlord directly notified the Tenant of this person's role and need to communicate closely with the Tenant at the outset of the sales process, and the added benefit was that this person was known to the Tenant as someone familiar with the Landlord and the rental unit. Again, in this regard the Tenant did not show anything even approaching a breach by the Landlord with respect to showings in the rental unit and notification thereof.

Even though I dismiss this piece of the Tenant's claim because there was no violation of any part of the *Act* or the tenancy agreement, I find the Tenant did not establish a value of the damage or loss to them. I distinguish the written case they provided where an arbitrator granted $500 to an applicant, as resulting from an egregious violation of the *Act* s. 29. That was certainly not present here. The arbitrator found that landlord did not notify the tenant of the reason for the entrance; here, I find the Landlord informed the Tenant of the need for entrance into the rental unit consistently every step of the way. That case described a physical confrontation within the rental unit, which is something quite extreme and unprovoked. The arbitrator awarded nominal damages, with no proof of significant loss to the applicant, but affirming that a legal right was breached. That case is an ample illustration of the principles in play where a landlord

breaches this particular piece of the *Act*; in this hearing, I find categorically that the Landlord did not breach the *Act* or the tenancy agreement in any such manner.

With this rationale, I dismiss the Tenant's claim for $3,500, as stemming from alleged failure to properly notify the Tenant of showings.

ii. Tenant's quiet enjoyment during the sale

The *Act* s. 28 provides for a tenant's right to quiet enjoyment. This includes, but is not limited to, the right to:

- reasonable privacy
- freedom from unreasonable disturbance
- exclusive possession subject only to a landlord's right to enter the rental unit in accordance with s. 29

The *Residential Tenancy Branch Policy Guidelines*, in particular "6: Entitlement to Quiet Enjoyment" contains the following:

> A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situation in which the landlord has directly caused the interference, and situations in which the landlord was aware of the interference or unreasonable disturbance, but failed to take reasonable steps to correct these.
>
> Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

The Tenant provides that they were not aware of what was happening with the sale of the rental unit until mid-June. I find this was after they had contacted the Landlord/Real Estate Agent on May 29 to inquire, after receiving a mutual agreement to end tenancy.

In the Landlord's evidence is proof that the new owner requested the Landlord to serve a Two-Month Notice, via the "Buyer's Notice to Seller for Vacant Possession", signed on May 20, 2022, and acknowledged by the Landlord on May 21, 2022. I find the Tenant at that time was checking on their responsibilities as Tenants, then informing the Landlord on May 24 they would *not* sign the mutual agreement. It is not known why the Landlord felt they could not inform the Tenant of a sale – which would entail a different set of considerations regarding the Tenant's rights and obligations, *e.g.*, one month's rent – when asked. The Tenant was aware of the spectre of a sale throughout the

preceding month, and I find it reasonable that inquiries to the Landlord/Real Estate Agent stemmed from this process when they knew they would, in all likelihood, be moving out from the rental unit at some point.

I find it disingenuous on the part of the Landlord to not answer the rather simple query from the Tenant at this time. The constant communication regarding showings, in which the Tenant was imposed upon to accommodate, all but ended completely with the Real Estate Agent's curt response to the Tenant on May 29. The Landlord unilaterally imposing a mutual agreement, in simple logic, defeats the purpose of that document. The Tenant correctly notified the Landlord that their tenancy would revert to a month-to-month status unless the Landlord otherwise ended the tenancy. At this point, the notice from the buyer was in place, yet the Landlord for whatever reason asked for the mutual end to the tenancy, and then rebuffed the Tenant when they reasonably asked for more information in the circumstances.

I find these responses from the Landlord, equating to lack of information and communication on a reasonable inquiry from the Tenant, stand as substantial interference with the Tenant's quiet enjoyment at that time. This was an unreasonable disturbance in that the Tenant was forced to make inquiries elsewhere on their rights in this situation, without communication from the Landlord as to what was really happening. The Landlord did not provide any rational reason, aside from a vague notion of privacy, on why they chose to withhold information. Again, at that time, the buyer's request to the Landlord was in place, and acknowledged by the Landlord, yet different messaging was conveyed by the Landlord to the Tenant, whose rights were affected. I find the Tenant positively deserved to know whether a new owner would continue the tenancy or requested vacant possession. The Tenant was definitely facing a life-changing event at that time, yet the Landlord, via their Real Estate Agent, thought the Tenant ought not to know this information.

I find this equates to the Landlord exacerbating the Tenant's concern over the whole matter, by withholding disclosure of information concerning the future of the rental unit that was not reasonable in the circumstances. I find the Tenant did not inflame the situation by making inquiries. I find inquiries to the Landlord were justified in the case of the mutual agreement, no answers to the simple questions of needing to vacate, and a cold stop to communication with the Real Estate Agent, to an unreasonable degree.

I appreciate that things were moving fast, and it is on the record that the Landlord was dealing with a very serious personal matter; however, the Real Estate Agent rebuffed the Tenant when asked a basic question about the sale. This was after the Tenant

invested a lot of energy into showings in which the Tenant, overall, was not unaccommodating. I find it simply inconsistent that throughout the tenancy the Tenant was informed that the Real Estate Agent – who I find acted in various capacities on the Landlord's behalf at all points throughout the tenancy – would suddenly cease all communication. This was in an abrupt manner and equates to jarring the Tenant to such a degree as to be a substantial interference.

Continuing into the Tenant's other concerns in this interim period, I find their concern about the future state of the tenancy, and the sale of the rental unit, and their future plans, carried over into their mistrust of the Real Estate Agent, particularly when all communication ceased. One other specific issue also raised by the Tenant was the Real Estate Agent holding a key to the rental unit. I find this was a residual concern, and in actuality not palpable where the Tenant was well aware that the Landlord stressed the need for communication on entry throughout the sales process. It is inconceivable that the Landlord would disavow themself of that responsibility. Unfortunately for the Tenant their perception at this time was that all communications and actions by the Landlord and their agent constituted harassment. I find that is an emotional reaction to the situation. I find the Landlord's agent holding a key from that point was not definite in its impact, and this facet of the Tenant's submissions does stand as an impact on their quiet enjoyment.

I find the Landlord breached the Tenant's right to quiet enjoyment, but only for a discrete portion of the entire time the Tenant specified in the sales process. I find the most caustic period for the Tenant was from May 21 to June 8. As above, I find the period through the showings, though challenging to the Tenant, was not met with the Landlord's lack of communication. This is in sharp contrast from the period from May 21 onwards: this was the period when the Tenant was not knowing how the tenancy would end, or if they would be able to continue on in the rental unit, with their own inquiries effectively shut down. For this period of time, I grant the Tenant compensation for the full amount of rent they paid, being a total of $1,591.

iii. Tenant's quiet enjoyment for remainder of the lease

As set out above, s. 28 provides for a tenant's right to quiet enjoyment, including reasonable privacy, freedom from unreasonable disturbance, and exclusive possession subject to a landlord's limited right to enter the rental unit.

On this separate category identified by the Tenant in their Application, I find the Tenant's right to quiet enjoyment was not violated by the Landlord. I defined a very

limited timeframe in which the Tenant's distress concerning the end of their tenancy was exacerbated by the Landlord not communicating, and sending a different message, not clarified, with the mutual agreement to end tenancy.

I find this part of the Tenant's Application vague in its timeframe. I find the Tenant had full awareness of what was happening with the end of the tenancy when they received the Two-Month Notice on June 9. I find they were fully aware of their rights and responsibilities from that point forward. Though the Tenant took issue with the way the Landlord served the Two-Month Notice, I find that was a residual concern, where at that point virtually any communication from the Landlord was going to be challenged by the Tenant.

I made a finding on the impact of the Landlord's Real Estate Agent holding a key. Given the Landlord's awareness of the strict rules about entry with proper notice, I find the likelihood of any abuse arising from the Real Estate Agent holding the keys was negligible. I find the Tenant's objection was based more on the Tenant's surprise at the Landlord's line on the Real Estate Agent's role, which really stems from that Real Estate Agent's blunt response to the Tenant on May 29.

I don't see the remainder of the tenancy, from June 9 onwards, as being any interruption of the Tenant's right to quiet enjoyment. The Tenant based their claim on the full amount of rent during this time; however, I find their rights were neither breached nor diminished during this timeframe, even though communication was obviously strained-to-non-existent.

In conclusion, I dismiss this portion of the Tenant's claim for compensation.

I find, overall, it was necessary for the Tenant to bring this Application to assert that their rights during the tenancy were breached. In line with this, I grant reimbursement of the Application filing fee to the Tenant. I add that amount to the amount of compensation that I granted above.

## Conclusion

Pursuant to s. 67 and 72 of the Act, I grant the Tenant a Monetary Order in the amount of $1,691.00. I provide the Tenant with this Monetary Order, and they must serve this Monetary Order to the Landlord as soon as possible. Should the Landlord fail to comply

with this Monetary Order, the Tenant may file this Monetary Order with the Small Claims Division of the Provincial Court where it will be enforced as an Order of that Court.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: July 4, 2023

Residential Tenancy Branch