



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, OLC, LRE, LAT, FF

### Introduction

This hearing dealt with an application by the tenant for money owed or compensation due to damage or loss, to order the landlord to comply with the Act, suspend or set conditions on the landlord's right to enter, authorize a tenant to change the locks to the rental unit and recovery of the filing fee.

Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

This tenancy began February 15, 2012 with monthly rent of \$1180.00 and the tenant paid a security deposit of \$525.00 and a pet damage deposit of \$525.00.

The tenant testified that from the start of the tenancy the landlord would constantly send her text messages or show up at the rental unit wanting to check the condition of the floors in the rental unit because of the tenant's dogs. The tenant stated that the messages from the landlord and him showing up at the rental unit became so frequent that she started to avoid answering him as often times when he did show up he would be bang on the tenant's door until she answered, be excited and upset when she did answer the door and she always had to calm him down. The tenant referred to the many text messages sent to her by the landlord but acknowledged that they had not been submitted into evidence.

The tenant stated that on one occasion when she went away and had a dog sitter she sent the landlord a text message to let him know. The tenant stated that the landlord however did not properly read the message and came to the conclusion that the tenant had simply left her dogs in the rental unit for 4 days with someone only coming in to feed them.

The landlord testified that he had sent text messages to the tenant but there had not been as many sent as the tenant claimed and that over the past few weeks he had not contacted the tenant at all.

The landlord stated that on March 27, 2012 new tenants moved into the lower rental unit. The landlord stated that the wifi, internet and cable are set up so that both rental units have access to this service. The landlord stated that he no longer had the password for the wifi and he asked that the tenant provide him with this information as the modem was in her rental unit and she knew the password, the tenant however did not respond back to the landlord. The landlord stated that the new tenants then asked the tenant for the password a few days later when they were in the yard together and she told them to get it from the landlord.

With no response from the tenant regarding the password the landlord then on March 29, 2012 put a notice to enter on the tenant's door so that the modem could be retrieved, put in a common area and set up by the provider with a new password.

The tenant stated that she had not responded to the landlord's request for the password as by this point in the tenancy he had harassed her so much with his constant texting that she simply did not respond. The tenant also stated that she did not know the people asking for the password were the new tenants for the lower rental unit although she apparently told them to ask the landlord for the password.

The tenant stated that when she got the notice to enter from the landlord she contacted this office to see if the notice was legal. The tenant stated that she was advised that as the landlord did not specify a time of entry, the notice did not comply with the Act. The tenant stated that because of her dogs she needed to be home when the landlord entered and that until looking closer at the notice during today's hearing, she had not seen that the landlord had written *'Please let me know what time works best for you'*. The tenant then provided the landlord with a portion of the Act and advised him he could not enter the rental unit. The tenant maintained that it was the landlord's responsibility to set a time for entry into the rental unit and that she should not have been expected to call him back.

The landlord stated that after being advised that he could not enter the rental unit to retrieve the modem, the landlord had the police attend with him and at that time he completed retrieval of the modem. The modem was then reconnected 2 days later and new passwords provided to both rental units. The tenant stated that she still has wifi access but not in all the rooms of her rental unit and that some of the channels in the original cable line up are no longer available. The landlord responded by stating that the tenant knew the cable package was a promotional offer and that at the end of the promotion unless they all paid more for the cable bill that the programming would change. The landlord pointed out that the tenancy agreement addendum specified that if the cable bill went up the rent would be adjusted upwards April 1, 2012 by \$30.00.

The tenant stated that because of the landlord's illegal entry which was preceded by the police pounding on her door, she has had to take her dogs to the veterinarian for medical attention and that the dogs now act very nervously and bark when someone comes to the door which they never used to do.

The tenant stated that the relationship between her and the downstairs tenants has also now deteriorated to the point where the other tenants are constantly complaining to the landlord about her and to protect herself she is videotaping everything that goes on in the yard.

The tenant stated that she has suffered stress and mental anguish because of the landlord's actions to the point where she has had to go on medication, she has incurred high cell bills because she has been calling her family in Alberta for support, she has had to deal with the police on 2 occasions, the downstairs tenants are making false complaints about her to the landlord and she will now have to spend more money to move.

Both parties contradicted the others testimony throughout the hearing and were very emotionally invested in the hearing.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has not met the burden of proving that they have grounds for entitlement to money owed or compensation due to damage or loss.

The tenant speaks to the landlord continually contacting her by text and in person with a myriad of questions at the start of the tenancy and it is recognized that this could become stressful to deal with and disturb the tenant's peace and quiet enjoyment of the rental unit. However when the tenant choose to ignore the landlord's request for the wifi password, what happened afterwards with the landlord requesting entry into the rental unit for the modem, the tenants refusal again to respond to the landlord and the landlord entering with the police in attendance, led to and created the volatile situation the parties find themselves in today.

And while the landlord could have provided the tenant with a specific time for entry into the rental unit, the landlord in his notice to enter asked the tenant to pick a time that worked best for her and to let him know. I do not find it reasonable for the tenant, because of an excess of text messages at the start of the tenancy, to have simply ignored the landlord in his request for the password to the wifi and resulting necessity to enter the tenant's rental unit to remove the modem to a common area. For the tenant to not respond and then respond with a denial for entry and give the landlord sections of the Act to refer to certainly helped to escalate the situation.

The tenant has also not provided copies of the excessive text messages which the landlord discounted as not as often as the tenant claimed. The tenant has not submitted evidence that clearly establishes the actions of the landlord being the cause of the issues with her dogs, her stress or excess cell phone bills. It is recognized that this situation has become very stressful for the tenant however the tenant refusal to communicate with the landlord has played a significant role in things escalating to this point. It would do both parties well however to stop bombarding each other with complaints and accusations as that solves nothing and only deteriorates their relationship even further.

Therefore I do not find that the tenant has clearly established that that the landlord has directly caused the tenant to suffer and that the tenant is entitled to \$5000.00 in compensation.

In regards to the tenants application for the landlord to comply with the Act, I find that while the landlord could have specified a time on his notice to enter, asking the tenant to provide a time that suited her did not invalidate the notice. A tenant may not simply refuse a landlord entry for a valid reason and in this case, as the tenant refused to provide the password for the wifi, the landlord entry into the rental unit to retrieve the modem was a valid one. And while as a new landlord it may serve the landlord well to understand what his rights and responsibilities are, I do not find it necessary to order the landlord to comply with the Act.

As the landlord has only entered the tenant's rental unit on this one occasion, conditions will not be placed on the landlord's right to enter, nor will the tenant be allowed to change the locks.

In regards to the \$30.00 rent increase for the increased cable bill, this rent increase does not comply with the Act. And as wifi, internet and cable access are provided as part of the tenancy, the landlord may not now disconnect the tenant's service without providing proper notice and corresponding rent reduction per the Act. The tenant will be allowed a \$30.00 rent reduction on the may 2012 rent and the rent will remain \$1180.00 per month.

The tenant's application is hereby dismissed in its entirety.

As the tenant has not been successful in their application the tenant is not entitled to recovery of the \$50.00 filing fee.

### Conclusion

The tenant's application is dismissed without leave to reapply.

The tenant will be allowed a onetime rent reduction of \$30.00 on future rent owed to the landlord.

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: April 24, 2012

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Residential Tenancy Branch