

## Business Licence (Short-term Rental) Appeal re 2-1871 Fern Street

### Submission of the Licence Inspector

#### I. Introduction

1. This is an appeal from the decision of the Licence Inspector to refuse to issue a business licence to Kaila Pilecki for the operation of a short-term rental at 2-1871 Fern Street.
2. The business licence was denied pursuant to section 4(b) of the *Short-term Rental Regulation Bylaw*, which states:
  4. *The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,*  
...  
*(b) the short-term rental operation would contravene a City bylaw or another enactment.*
5. The appeal is brought pursuant to section 60(5) of the *Community Charter*, which requires that an applicant for a business licence has the right to have a staff decision to refuse such licence reconsidered by Council.
6. On a reconsideration such as this, Council can apply its own judgment and may either uphold the decision to refuse the licence or grant the licence.

#### II. Facts

7. The appellant owns the property at 2-1871 Fern Street. The property is one half of a duplex, zoned R1-B (single family dwelling). Short-term rentals are not a permitted use under this zone.
8. The owner of the property has created a self-contained unit in the basement. [See attached photos]
9. The basement unit consists of a living room/dining room/food preparation area (kitchenette), a separate bedroom, and a separate bathroom. It has a separate entrance from outside with keypad for self-entry. There is a locking door between the basement suite and the rest of the house. That door locks from outside of the basement unit (i.e., the units occupants have no access to the rest of the house).
10. According to Airbnb listing the kitchenette includes a small fridge, toaster oven and a kettle. These items, as described in the listing, were not present in the unit at the time of the inspection, but remain advertised in the Airbnb listing.

11. The appellant has rented the entire basement unit as a short-term rental since at least December 2018. In 2019, the appellant had accepted over 56 short-term rental bookings, with stays as short as 2 days. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.
12. The appellant applied for and received a business licence to operate a short-term rental in 2018 and 2019. The licence was granted on the basis of the appellant's representation that the short-term rental was offered in the appellant's principal residence.
13. An inspection of the premises on February 10, 2020 revealed that the basement unit is operating as a self-contained dwelling and is not part of the appellant's principal residence. At the time of the scheduled inspection, the appellant had also removed the small fridge and microwave oven from the unit.
14. On February 14, 2020, the Licence Inspector advised the appellant that her application for a short-term rental licence has been refused because short-term rental of a self-contained dwelling did not comply with applicable zoning.

### III. Relevant Regulations

15. The City regulates short-term rentals through the *Short-term Rental Regulation Bylaw* and through provisions of the zoning bylaws. In relation to the property, the relevant zoning bylaw is the *Zoning Regulation Bylaw*, which states, in part:

17 ...

(4) *Without limiting the generality of subsection (1), short-term rentals, whether as a principal or accessory use, are prohibited in all zones except*

(a) *where they are expressly permitted subject to regulation applicable in those zones;*

(b) *rental of no more than two bedrooms in a self-contained dwelling unit, as home occupation, provided that:*

(i) *the self-contained dwelling unit is occupied by the operator of the short-term rental; and*

(ii) *short-term rental complies with all regulations in Schedule D as if it were a transient accommodation.*

16. A self-contained dwelling unit is defined in the *Zoning Regulation Bylaw* as "a suite of rooms in a building designed for occupancy of one family which has a separate entrance, and kitchen and bathroom facilities." A kitchen is not defined in the bylaw. However, the Oxford English Dictionary defines "kitchen" as "a room where food is prepared and cooked".

#### IV. Argument

17. When short-term regulations were initially introduced, the City was flooded with applications of business licences. In an effort to encourage compliance with regulations, these applications were processed very quickly and were not always fully screened. More careful reviews and inspections have been conducted as part of 2020 application process. Therefore, the fact that the appellant was issued a short-term rental business licence in 2018 and 2019 is not an indication that a 2020 licence should also be issued.
18. Although the appellant resides in the house at 2-1871 Fern Street, the premises that are rented as a short-term rental are not part of her principal residence, because the basement unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as a self-contained guest suite on Airbnb. [Matched Property Listing Attached]
19. It is clear that the basement unit at 2-1871 Fern Street is being offered as a self-contained dwelling unit: it has its own entrance from outside, a kitchenette with space to prepare and cook food (i.e., “kitchen”), and separate bathroom – it meets the requirements of the definition of “self-contained dwelling unit” in the *Zoning Regulation Bylaw*.
20. The appellant appears to rely on the absence of a full kitchen; however, the unit has been prepared to operate independently as a self-contained suite, and not as two bedrooms in her principal dwelling unit, as required by Schedule D of the *Zoning Regulation Bylaw*.
21. For all these reasons, the Licence Inspector submits that the appellant’s application for a short-term rental business licence had to be refused as it contravened the *Zoning Regulation Bylaw*.
22. One of the objectives of the City’s regulations of the short-term rentals was to address the problem of self-contained dwelling units being diverted from the housing market to a vacation rental market. This is the rationale behind the provisions of the zoning bylaw which limit short-term rentals to bedrooms within self-contained units rather than entire self-contained units.
23. The property at 2-1871 Fern Street is an example of a self-contained dwelling unit that has been lost to the regular housing market in the past, contrary to the intent behind City regulations, which prohibit rental of entire self-contained dwelling units as short-term rentals.
24. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 2-1871 Fern Street upheld.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

A handwritten signature in blue ink, appearing to be 'Shannon Perkins', written on a light-colored background.

Dated: November 16, 2020

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Shannon Perkins, Manager of  
Bylaw Services

Rental Unit Record

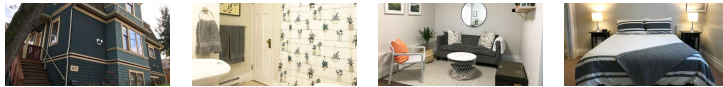
# 1871 Fern St, Victoria, BC, Canada

Removed X  
Identified ✓  
Compliant X

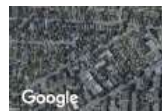
PRINT

## Listing(s) Information

Airbnb - 30426491



## Rental Unit Information



### Identified Address

1871 Fern St, Victoria, BC, Canada

### Identified Unit Number

2

### Identified Latitude, Longitude

48.429653, -123.334742

### Parcel Number

0123407412156

### Owner Address

1871 Fern St #2, Victoria  
Victoria, BC V8R 4K4, CA

## Matched Details

**Analyst** CDZT

### Explanation

Exterior matches in street view. Unit #2 is visible on the mailbox on the photo.

The Victoria BC records and map confirm the location and address and show Area-Jurisdiction-Roll 01-234-07-412-156 for unit #2. <http://prntscr.com/m2ap02>

### Listing Photos

Listing photo 1

### Matching 3rd Party Sources

Evidence 1



Same exterior. #1871 is visible on the photo. Unit #2 is visible on the mailbox on the photo.

Owner Name Match

## Timeline of Activity

View the series of events and documentation pertaining to this property

- X Listing air30426491 Removed March 5th, 2020
- Listing air30426491 Reposted March 2nd, 2020
- X Listing air30426491 Removed February 16th, 2020

**Listing Details**

Listing URL	— <a href="https://www.airbnb.com/rooms/30426491">https://www.airbnb.com/rooms/30426491</a>
Listing Status	● Inactive
Host Compliance Listing ID	— air30426491
Listing Title	— Fabulous Fern Street Flat
Property type	— Guest suite
Room type	— Entire home/apt
Listing Info Last Captured	— Mar 02, 2020
Screenshot Last Captured	— Mar 02, 2020
Price	— \$49/night
Cleaning Fee	— \$30

**Information Provided on Listing**

Contact Name	— Kaila
Latitude, Longitude	— 48.429960, -123.334360
Minimum Stay (# of Nights)	— 2
Max Sleeping Capacity (# of People)	— 2
Max Number of People per Bedroom	— 2.0
Number of Reviews	— 62
Last Documented Stay	— 02/2020


















**Listing Screenshot History**

 [View Latest Listing Screenshot](#)

July 0

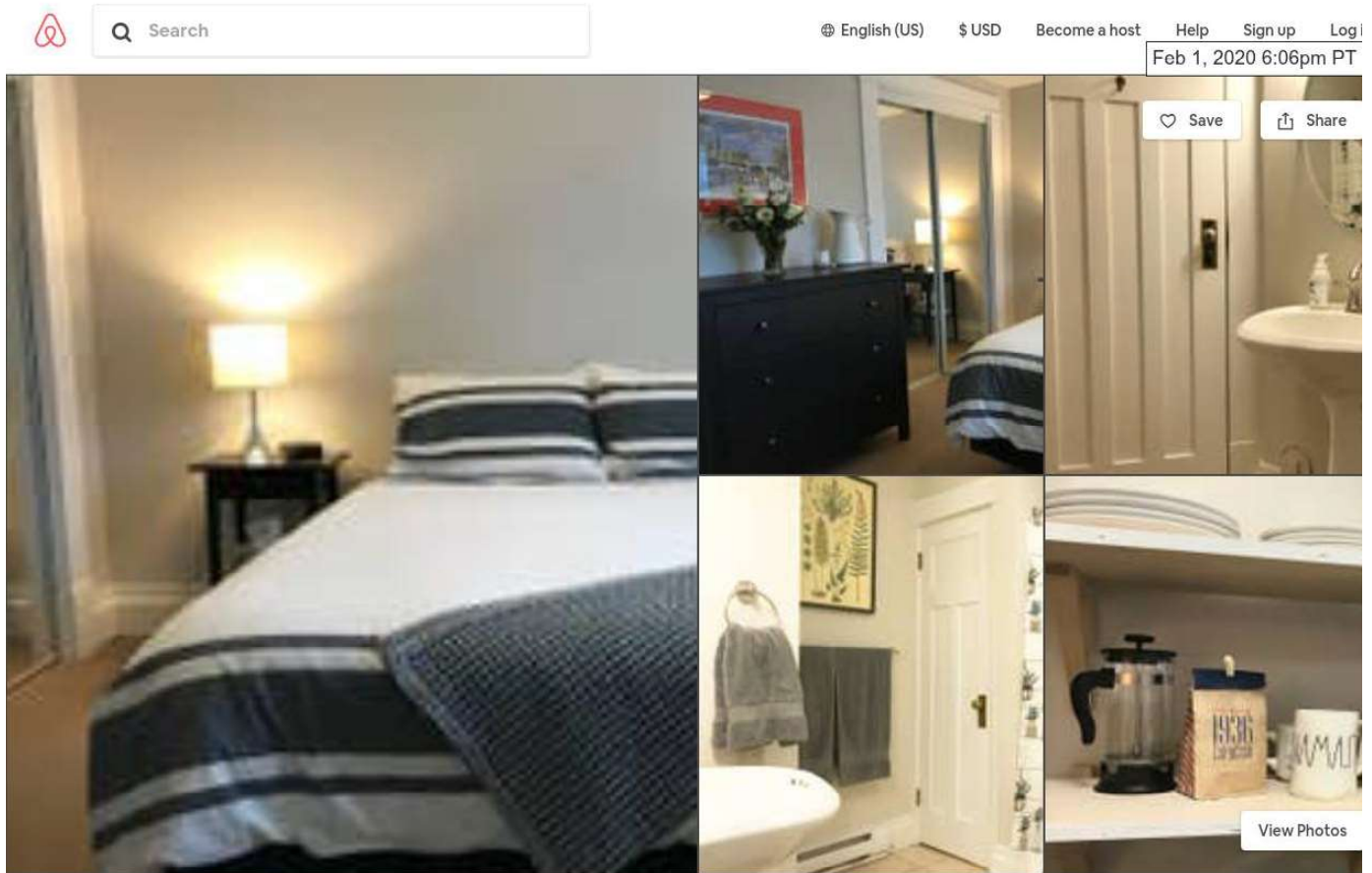
August 0

September 0

-  **2 Documented Stays**  
February, 2020
-  **2 Documented Stays**  
January, 2020
-  **3 Documented Stays**  
November, 2019
-  **2 Documented Stays**  
October, 2019
-  **9 Documented Stays**  
September, 2019
-  **5 Documented Stays**  
August, 2019
-  **11 Documented Stays**  
July, 2019
-  **6 Documented Stays**  
June, 2019
-  **6 Documented Stays**  
May, 2019
-  **4 Documented Stays**  
April, 2019
-  **3 Documented Stays**  
March, 2019
-  **3 Documented Stays**  
February, 2019
-  **4 Documented Stays**  
January, 2019
-  **Listing air30426491 Identified**  
January 7th, 2019
-  **2 Documented Stays**  
December, 2018
-  **Listing air30426491 First Crawled**  
December 2nd, 2018
-  **Listing air30426491 First Activity**  
December 2nd, 2018

February 01, 2020 - 07:06PM America/Vancouver

Screenshot printed at: 9/17/2020 11:28:39 AM



## Fabulous Fern Street Flat

Victoria



Kaila

2 guests 1 bedroom 1 bed 1 bath

- 🏠 **Entire home**  
 You'll have the guest suite to yourself.
- 🔑 **Self check-in**  
 Check yourself in with the keypad.
- 🧼 **Sparkling clean**  
 17 recent guests said this place was sparkling clean.
- 📍 **Great location**  
 90% of recent guests gave the location a 5-star rating.

**\$49** per night

★ 4.90 (61 reviews)

Dates

02/03/2020 → Checkout

Guests

1 guest

**Reserve**

You won't be charged yet

🚩 Report this listing

Come stay in our fabulous Fern Street Flat! Whether you're working or visiting our beautiful city on vacation, we're the spot for you.

Enjoy access to your own fenced terrace and easy check in.

Clean, minimalist decor with touches of home including locally roasted fresh coffee, a mini fridge, a toaster oven & kettle.

### The space

Offering a private suite including a spacious bedroom, bathroom, living room, work station (including Apple TV) and kitchenette.

### Guest access

You'll have access to the entire ground floor of our house including the fenced terrace.

[Hide](#) ^

[Contact host](#)



## Amenities

### Basic

#### Wifi

Continuous access in the listing

#### TV

#### Laptop-friendly workspace

A table or desk with space for a laptop and a chair that's comfortable to work in

#### Iron

#### Essentials

Towels, bed sheets, soap, and toilet paper

#### Heating

Central heating or a heater in the listing

#### Hot water

### Facilities

Free parking on premises

Free street parking

### Dining

Coffee maker

Dishes and silverware

Refrigerator

### Guest access

#### Keypad

Check yourself into the home with a door code

#### Private entrance

Separate street or building entrance

### Bed and bath

Hangers

Hair dryer

Shampoo

Bed linens



Extra pillows and blankets

**Outdoor**

Patio or balcony

**Safety features**

Fire extinguisher

Carbon monoxide alarm

Smoke alarm

First aid kit


**Not included**

Kitchen

Air conditioning

Washer

**Sleeping arrangements**



**Bedroom 1**  
1 queen bed

**Availability**

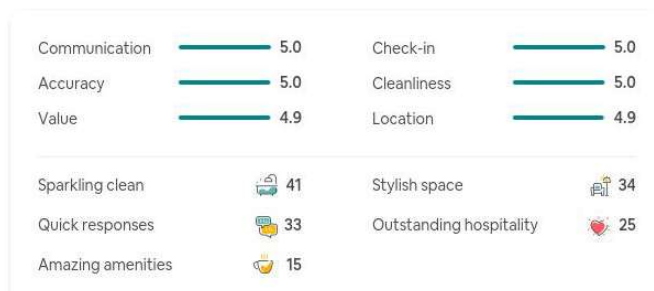
This host offers 11% off if you stay a week and a 28% monthly discount.



[Clear dates](#)

**Reviews**

★ 4.90 | 61 reviews





**Dan**  
November 2019

Nice place. Short drive from downtown. Kaila was always quick to respond.



**Christine**  
July 2019

Space was very clean and stylish. The flat gets a lot of sunshine in the morning which was really nice with our morning coffee throughout our stay. Great value for the quality of the flat. Overall, Kaila and Scott were very kind and attentive hosts.



**Julia**  
July 2019

This cozy little apartment was the perfect place to stay during our visit to Victoria! Clean, inviting, and all the amenities we needed. Would definitely stay there again!



**David**  
July 2019

Great place within walking distance to downtown/harbor area. Comfortable bed and very clean.



**Enilezah Enna**  
July 2019

It was an awesome space and very centrally located. Thanks again for letting us stay at your lovely suite. We would highly recommend it to friends and family.



**Joette**  
July 2019

We loved our time here. Great communication with Kaila, sparkling clean, and the location was only a short drive to downtown. Everything we needed!!



**Tesla**  
June 2019

We had a wonderful time at Kaila's place while I was in the area for a week long conference at UVic. It is located within walking distance of several bus lines, making it super easy to get around. The space was thoughtfully laid out and everything was provided for! We would...[Read more](#)

1 2 3 ... 9 >

## Hosted by Kaila

Victoria, Canada · Joined in September 2012

★ 61 Reviews Verified

We live in beautiful Victoria, BC. We enjoy all sorts of outdoor activities and traveling. We look forward to meeting new friends and exploring places we visit. The five things we can't live without are bikes, coffee, books, our dog Bowmore and our friends. As hosts, we do...[Read more](#)

### Interaction with guests

We live upstairs and will be available if you need us during your stay. We've set up the suite so that you have easy, private access to the space.

Languages: **English**

Response rate: **100%**

Response time: **within an hour**



Contact host

Always communicate through Airbnb · To protect your payment, never transfer money or communicate outside of the Airbnb website or app. [Learn more](#)

About this place

When you stay in an Airbnb, you're staying at someone's place.

This is Kaila's place.



Scott helps host.



The neighborhood

Kaila's place is located in Victoria, British Columbia, Canada.

Our Fern Street Flat is a 10 minute walk to Jubilee Hospital and 30 minute walk downtown or to Oak Bay Avenue.

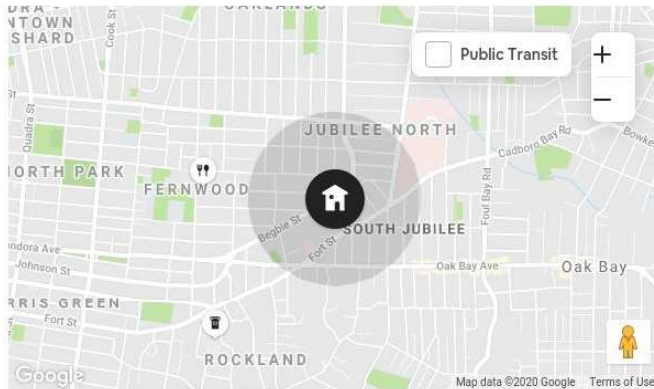
Easy access to public transit, right outside our front door.

Close by you'll find Fernwood square with excellent restaurants including Stage, The Fernwood Inn and Little June. The Belfry Theatre is a local gem. For a little Victoria history, Craigdarroch Castle is a close walk away.

Getting around

There's so much to do - all easily accessible by walking, transit or driving, however you choose to see beautiful Victoria!

Hide ^



Exact location information is provided after a booking is confirmed.

Things to keep in mind

Check-in: After 3:00 PM

Checkout: 11:00 AM

Self checkin with keypad

House Rules

No smoking

No pets

No parties or events

You must also acknowledge

Security deposit - if you damage the home, you may be charged up to \$378

Hide rules ^



TIME STAMP



February 10, 2020 10:53 AM



February 10, 2020 10:54 AM



TIME STAMP



February 10, 2020 10:57 AM

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February 10, 2020 10:57 AM



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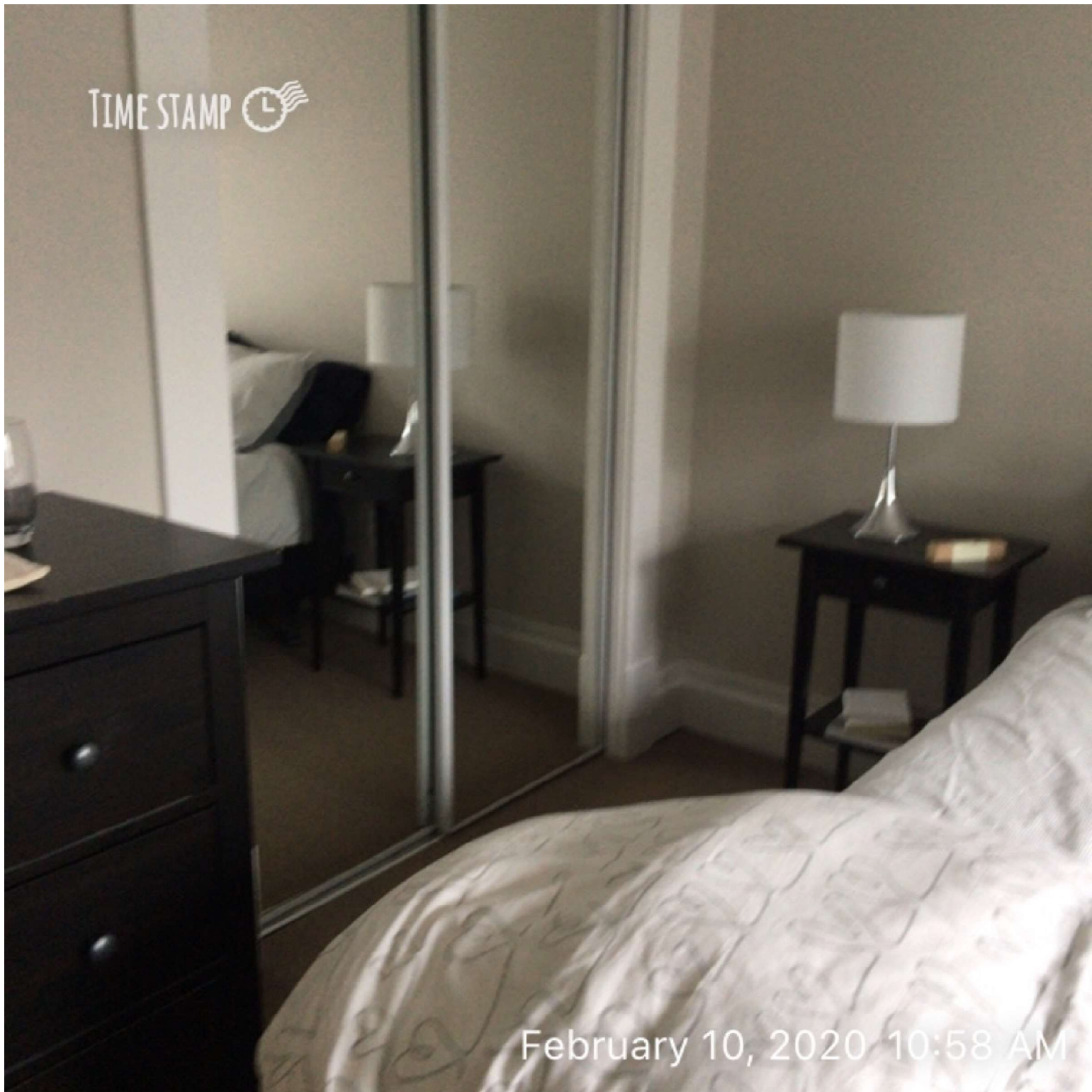
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