

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

**Dispute Codes:** AAT

### **Introduction**

This hearing dealt with the tenant's application pursuant to section 70 of the *Residential Tenancy Act*, for an order to allow the tenant access to the rental unit, for the purpose of retrieving her belongings.

The tenant stated that she served the notice of hearing on the landlord, by registered mail on May 11, 2009. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant applicant attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Was the tenant unlawfully locked out? Is the tenant entitled to an order to allow her access to the rental unit?

### **Background and Evidence**

The tenancy began on September 23, 2008. The tenant rented a room in the landlord's residence. There was no written agreement, but it was verbally agreed upon that the tenant would pay \$380.00 per month.

The tenant stated that sometime during the first week of February 2009, she drove to Lumby to visit her mother and attend a medical appointment. Her truck broke down and she ended up staying in Lumby until February 23, 2009. When she returned to her rental unit along with the witness, she was able to enter her room, but while she was packing her belongings, the landlord asked her to leave the house. The tenant stated that the landlord demanded rent and refused to allow her to remove her belongings until she paid.

The tenant made a total of six trips to the rental unit to retrieve her belongings. Some of the trips were by appointment and accompanied by a policeman. The tenant was unsuccessful in retrieving her personal property as the landlord was either not at home or if she was home, she did not give the tenant access to her room. The tenant is requesting an order which will grant her access to her personal property.

### **Analysis**

Pursuant to section 26 (3) of the *Residential Tenancy Act*, whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not

- (a) seize any personal property of the tenant, or
- (b) prevent or interfere with the tenant's access to the tenant's personal property.

Accordingly, the tenant is entitled to access to her personal property in the rental unit. The landlord must give the tenant access to her personal property and I order the landlord to do so. If the landlord fails to comply with the order, the tenant has leave to apply for a monetary order, for the value of the items wrongfully held by the landlord.

### **Conclusion**

I grant the tenant an order which directs the landlord to allow the tenant access to her personal property.

Dated June 15, 2009.

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Dispute Resolution Officer