

## **DECISION**

Dispute Codes      MNDC, RPP, OPT, AAT

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking monetary orders for compensation under the Act or tenancy agreement, an order for the Landlord to return the Tenant's personal property, to obtain an order of possession for the rental unit, and allow access to the rental unit by the Tenant.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues(s) to be Decided

Is the Tenant entitled to the relief sought?

### Background and Evidence

The Tenant testified that he moved into the rental unit in May of 2010. He was to pay the Landlord \$450.00 per month in rent.

At the beginning of June 2010, the Tenant informed the Landlord he could only pay \$250.00 at the time, and would pay the balance of the rent owed as soon as possible. The Tenant testified that initially the Landlord agreed to this. He further testified that the Landlord is his step brother.

The Tenant testified that the Landlord then changed his mind, and told him to move out in a few days. The Tenant informed the Landlord he had not been given a proper Notice to End Tenancy by the Landlord and that he was unable to remove him from the rental unit without following due process. The Tenant testified that the Landlord would not listen to him about his tenancy rights.

The Tenant returned to the rental unit and the Landlord had changed the locks, therefore, the Tenant could not gain access to remove his property. The Tenant

testified he only has one set of clothes, and the rest are in the rental unit. He testified he has gone through significant stress due to the actions of the Landlord.

The Landlord testified the Tenant was just a guest and had no tenancy agreement with him. The Landlord testified he has a tenancy agreement with a third party. He testified he did not file any evidence because he thought the Tenant's claim was a joke.

The Landlord further testified he did not believe the Dispute Resolution Officer had authority to award the Tenant access to the property and even if such an order was given, the Landlord testified he would not abide by the order.

I note that the Landlord was interruptive and belligerent throughout the hearing, and at several times he testified that he thought the entire process was "too funny".

### Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find that the Tenant is entitled to much of the relief sought in his claim.

I find that the Tenant and the Landlord had an oral tenancy agreement.

I find that the Landlord has breached section 44 of the Act by failing to end the tenancy in accordance with the Act. I find the Landlord has breached section 30 of the Act by failing to allow access to the rental unit by the Tenant.

I do not find that an order of possession is appropriate in this situation, as it is clear the tenancy relationship will not be salvaged and the tenancy has ended.

**I order the Landlord to provide access to the rental unit for the Tenant to remove his personal property. The Tenant shall give the Landlord 24 hours notice of the time when he will attend the rental unit and the Landlord must provide the Tenant access at that time for the Tenant to remove his personal property. The Tenant is advised to request police assistance at the time of access to help keep the peace. This decision and order may be provided to the police for their reference.**

I further find that the Tenant has suffered a substantial loss of quiet enjoyment and a complete loss of access due to the high handed actions of the Landlord.

I find the Tenant is entitled to monetary compensation of **\$1,000.00**, comprised of \$900.00 for the equivalent amount of rent for two months for loss of quiet enjoyment

and inability to access the rental unit, plus \$100.00 for out of pocket expenses he has suffered due to the Landlord's breach of the Act.

I grant the Tenant a monetary order of **\$1,000.00**, which must be served on the Landlord and may be enforced in the Provincial Court of British Columbia.

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 28, 2010.

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Dispute Resolution Officer