



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      RPP, MND, MNSD, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Tenant filed his Application seeking an order for the Landlord to return his personal property.

The Landlord filed his Application seeking a monetary order, to keep all or part of the security deposit and to recover the filing fee for the Application.

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 an order for the Landlord to return personal property?

Is the Landlord entitled to the monetary compensation sought?

### Background and Evidence

This tenancy began in May of 2009.

The Landlord testified that throughout the tenancy there were many problems with the Tenant's behaviour in the rental unit, with loud parties, drinking and too many occupants. There were police attendances at the property, some damage done to a window and complaints from neighbours. The Landlord testified that the Tenant would have received a Notice to End Tenancy earlier, however, the Tenant's parents lived in the same residential complex and repeatedly assured the Landlord they would keep an eye on the Tenant and keep him out of trouble.

On August 27 and 28 the Landlord received more complaints about the Tenant's noise from parties. The Landlord testified that on August 28, 2010 he issued the Tenant a one month Notice to End Tenancy for cause, with an effective date of September 30, 2010. This Notice was posted on the door, making the date of service August 31, 2010. I note that the Notice is dated September 28, rather than August 28. The Landlord testified, as did the party who prepared this document, that this was a typographical error and the Notice had been issued on August 28, 2010.

The Tenant testified he did not remember getting this Notice. He testified that he remembered the Landlord gave him a verbal notice to end the tenancy in early September of 2010. The Landlord testified that at this time the Tenant had already made arrangements to have his rent payment, made by direct deposit, redirected. The Tenant further testified he was packing and preparing to move on September 30, 2010. However, on that day the Tenant attempted to commit suicide. The Landlord and the Tenant's father had to break into the rental unit. They discovered the unconscious Tenant and he was taken to hospital for treatment.

The Landlord testified that on October 2, 2010, he had a conversation with the Tenant's father. He testified that the Tenant's father explained to him that the last time the Tenant attempted suicide he was in treatment for 30 days. While the Landlord was sympathetic to the Tenant's plight, the blood in the rental unit still had to be cleaned up and the Tenant's property removed. The Landlord testified he was acting on the Tenant's father's advice that the Tenant would be away for 30 days, and changed the locks on October 3, 2010. On October 4, the Landlord put the Tenant's property into storage.

On October 4, 2010, the Tenant contacted the Landlord to tell him he wanted to retrieve his property from the rental unit on October 5, when he got out of the hospital. The Landlord testified that he offered the Tenant his property without charge for storage, if the Tenant would come and clean the rental unit. The Landlord also offered a different rental unit to the Tenant and his father, if the father would live with the Tenant. The Tenant and his father then stopped communicating with the Landlord.

On October 8, the Landlord had cleaners go into the rental unit to clean the blood up and clean the rest of the unit. The Landlord testified that on October 10, 2010, the Tenant and his father contacted him and said they would not be taking the different rental unit and the Tenant wanted his property back. The Landlord explained the Tenant's property had been put into storage and that the Tenant would now have to pay storage fees, as he did not do the cleaning. The Tenant refused and filed his Application seeking the return of his property. The Landlord has filed for a monetary order for cleaning the rental unit, for storage and to retain the security deposit.

### Analysis

Based on the above, the testimony and evidence and on a balance of probabilities, I find as follows:

I find the Tenant has breached the Act by failing to clean the rental unit, and due to this breach the Landlord has suffered a loss.

I further find that, given the communications from the Tenant's father, the Landlord was entitled to treat the rental unit as abandoned and put the Tenant's property into storage. Therefore, I find the Tenant must pay the storage costs to the Landlord.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established a total monetary claim of **\$753.00** comprised of \$50.00 for removal of contents and garbage, \$150.00 for cleaning blood in the rental unit, \$65.00 for cleaning other portions of the rental unit, \$100.00 for carpet cleaning, \$50.00 for cleaning the stove and fridge, \$288.00 for storage and the \$50.00 fee paid for this application.

I order that the Landlord may retain the security deposit of **\$197.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$555.50**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: November 24, 2010.

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Dispute Resolution Officer