



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, RPP, LRE, AAT, SS, ff

### Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, for the return of the Tenant's personal property, suspend or set conditions on the Landlord's right to enter the rental unit, allow access to the rental unit or site to the Tenant and to serve the documents or evidence in a different way than required by the Act.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by personal delivery on March 7, 2011. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

At the start of the conference call the Tenant said he would withdraw the application for the filing fee, special service requirements and the request to suspend or limit the Landlord's entry to the unit. The Tenant said he has moved out and these parts of the application are not relevant now. In addition the Tenant requested the return of his damage deposit from the Landlord.

### Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so how much?
2. Is the Tenant entitled to his personal property and how may it be returned to him?
3. Is the Tenant entitled to access to the rental unit.
4. Is the Tenant entitled to the return of the damage deposit from the Landlord?

### Background and Evidence

This tenancy started in December 21, 2010 as a month to month tenancy. Rent is \$550.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$275.00 on December 21, 2010. The Tenant said the tenancy ended on February 20, 2011.

The Tenant said the Landlord ended the Tenancy on February 20, 2011 by locking him out of the rental unit and telling him he was evicted. The Tenant said the Landlord did not give him a Notice to End Tenancy. The Tenant continued to say the Landlord said

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he was keeping the Tenant's security deposit of \$275.00 and the Tenant would have to pay the Landlord \$300.00 if he wanted his personal belongings back. The Tenant said he did not know why the Landlord had evicted him.

The Tenant said he has made this application to get his personal property back and to make a monetary claim against the Landlord for 10 days of lost wages in the amount of \$1,500.00 and \$1,500.00 for the loss of his personal property if it is not returned. The Tenant said he has recovered his hockey equipment which he valued at \$1,000.00 and he said he would amend his claim for personal property to \$500.00.

The Tenant continued to say that no condition inspection reports were done on move in or move out and that he offered the Landlord to keep part of his security deposit in the amount of \$100.00 for carpet cleaning and to repair a small hole in the wall of the unit. The Tenant said the Landlord refused his offer.

The Tenant said the rent was paid and he did not think there was a problem with the tenancy.

## Analysis

Section 24 and 36 say that if the condition inspection reports are not completed and signed as stated in the Residential Branch Regulations the Landlord's right to withhold the Tenant's security deposit is extinguished.

I find that the Landlord has not completed the condition inspections on move in and move out therefore I order the Landlord to pay the Tenant \$275.00 representing the Tenants security deposit fore with.

Section 44 of the Residential Tenancy Act says how a tenancy can be ended. The Landlord has not complied with the Residential Tenancy Act in ending this tenancy. I accept the Tenant's testimony that the Landlord locked the Tenant out of the rental unit illegally, consequently I find for the Tenant and I award the Tenant an Order to enter the rental unit and recover his personal property. The Tenant is required to serve the Landlord this Order in one of the ways stated in the Act and the Tenant is to give the Landlord 24 hours Notice to the time he will be entering the rental unit. As well if the Tenant finds any of his personal property missing he has leave to reapply to the Residential Tenancy Branch for a monetary order for the value of his personal property.

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In regard to the Tenant's claim for the loss of 10 days of work in the amount of \$1,500.00, I find the Tenant has not provided any evidence as to if the days of work were missed nor any proof of the amount of loss that was incurred. Consequently I dismiss the Tenant's claim for lost wages with leave to reapply at another time.

In addition pursuant to Policy guideline 16, which says an arbitrator may award aggravated damages to a party if intangible loss for physical inconvenience and discomfort has been suffered by a party. I find that the Tenant has suffered an aggravated loss and I award the Tenant \$300.00 for his suffering.

## Conclusion

An Order has been issued for the Tenant to gain entry to the rental unit to recover his personal property.

Pursuant to sections 67 of the Act, I grant a Monetary Order for \$575.00 to the Tenant. The order must be served on the Respondents and is enforceable through the Provincial Court of British Columbia (small claims court) 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*.

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Dispute Resolution Officer