



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      MNDC OLC OPT RR FF

### Introduction

This hearing dealt with an application by the tenants for monetary compensation, a reduction in rent, an order of possession for the tenants and an order that the landlord comply with the Act. The landlord, an agent for the landlord and 11 persons for the tenants participated in the teleconference hearing.

At the outset of the hearing, the tenants requested an adjournment based on new and relevant information. I proceeded to hear from the tenants and the landlord regarding the tenants' adjournment request, and heard that the landlord may have breached the tenancy agreement such that the tenancy should be ended.

### Issue(s) to be Decided

Did the landlord breach the tenancy agreement such that an order to end the tenancy is warranted?

### Background and Evidence

The tenancy began on May 1, 2011 as a one-year fixed-term tenancy. The tenancy agreement describes the rental unit as follows: "upstairs suite (3 BR + 2 bathrooms) and downstairs suite (3 BR + 1 bathroom)." Six young individuals who planned to attend university beginning in September 2011 were the intended occupants of the rental unit. A parent of each of the occupants signed the tenancy agreement as tenants. None of the occupants moved into the rental unit at the outset of the tenancy, but they were paying rent.

The evidence of the tenants was as follows.

In mid-June 2011, it came to the attention of a parent of one of the occupants that the landlord was intending to begin carrying out renovations on the house. None of the other parents were informed by the landlord in any way of the renovations. None of the

tenants gave the landlord permission to attend at the rental unit, let alone carry out extensive renovations.

It very recently came to the attention of the tenants that the landlord had converted the garage into a separate rental unit, and had extended this new rental unit into a portion of the shared laundry room to provide a kitchen for the new unit. The garage was part of the tenants' rental property, as was the laundry room. A person unknown to the tenants has now begun residing in this new rental unit.

The landlord's response was that the garage was never included in the tenancy agreement, that it was part of her personal property. The landlord acknowledged that there was no clause in the tenancy agreement that specifically excluded the garage, but she pointed to the description of the rental unit in the tenancy agreement, which did not specifically include the garage. The landlord also acknowledged that she did not at any time verbally inform the tenants that she was using the garage for her own storage, because it was obvious that she was doing so. The landlord did not deny converting the garage into a separate rental unit or extending that unit into the shared laundry room space.

### Analysis

I do not accept the landlord's testimony that the garage was never included as part of the rental unit. As I pointed out to the landlord, the description of the rental unit in the tenancy agreement does not include other parts of the house such as a living room or kitchen, but those parts of the house are clearly part of the rental unit. Furthermore, if the landlord intended to exclude the garage from the rental unit, it ought to have been specifically identified as excluded in the tenancy agreement. The landlord acknowledged that she did not even verbally inform the tenants that the garage was excluded. Finally, the landlord irrevocably removed the not only the garage but also a portion of the laundry room from the rental unit.

I find that in converting the garage and a portion of the laundry room to a separate rental unit and renting it to a tenant under a separate tenancy, the landlord has egregiously and fundamentally breached the tenancy agreement. I find the only remedy is to end the tenancy.

### Conclusion

Under sections 62 and 44(1)(f) of the Act, I order the tenancy ended effective August 31, 2011.

As I have ordered the tenancy ended, I accordingly dismiss the portions of the tenants' application regarding an order of possession for the rental unit and an order that the landlord comply with the Act.

The monetary portion of the tenants' application is adjourned, and will reconvene as a teleconference hearing on November 17, 2011 at 11:00 a.m.

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: August 25, 2011.

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Residential Tenancy Branch