



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** RPP, OPT

### **Introduction**

This hearing dealt with an application by the tenant for an order directing the landlord to return her property and for an order of possession of the rental unit. The tenant stated that the notice of hearing dated September 08, 2011 was served on the landlord in person, that same day. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

At the start of the hearing, the tenant stated that she is looking for other accommodation and will not be returning to the rental unit. Therefore the tenant's application for an order of possession is no longer relevant and accordingly dismissed.

### **Issue to be Decided**

Is the landlord holding the tenant's property illegally?

### **Background and Evidence**

The rental unit was the residence of the tenant's father while he was employed by the landlord. The tenant moved in with her father approximately four years ago. The tenant's father ended his employment and moved out on August 15, 2011. The tenant spoke with the landlord and negotiated a date of August 23 as her move out date. The tenant stated that she was unable to find a place and continued to live in the unit without paying rent. After a few verbal exchanges between the two parties, on September 07, the landlord entered the unit and changed the locks. The tenant made this application on September 08 and later that day was arrested on charges of mischief.

The tenant stated that the landlord packed her belongings into boxes and put them into storage. The tenant was provided with access to storage and the landlord has agreed to pay storage fees for the months of September and October.

The tenant stated that she has the keys to the storage locker and has removed some of her items but several other items are missing. The tenant has not filed any evidence to support her testimony regarding the missing items. She has applied for an order directing the landlord to return her possessions.

### **Analysis**

Based on the tenant's testimony, I find that the landlord boxed her belongings, placed them in storage and is paying for storage for two months. The tenant has the keys to the storage unit. I find that the landlord is not holding the tenant's belongings but on the contrary is paying to store them. Since the tenant has possession of her belongings, her application for an order directing the landlord to return them is unnecessary,

The tenant testified that some items e.g. furniture are missing and wants them replaced by the landlord. The tenant has not filed any evidence to support this request nor has she applied for replacement of her items.

Based on the sworn testimony of the tenant, I find that she has not proven her case and accordingly I dismiss her application.

### **Conclusion**

The tenant's application is dismissed in its entirety.

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: September 19, 2011.

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Residential Tenancy Branch