



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, OLC, RPP

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for loss - Section 67;
2. An Order that the Landlord comply with the Act, regulation or tenancy agreement – Section 62; and
3. An Order for the return of the tenant’s personal property – Section 65/67.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Tenant entitled to an Order that the Landlord comply with the Act?

Is the Tenant entitled to an Order for the return of the Tenant’s personal property?

### Background and Evidence

The tenancy began on April 1, 2011 and ended on September 6, 2011. The Tenant states that the rent payable was \$450.00 per month. The Landlord states that the rent was \$600.00 per month. The Tenant states that when rent was paid on September 1, 2011, the Landlord told the Tenant to move out as they needed the unit empty. The Tenant provided bank records showing a cash withdrawal of \$500.00 on August 22, 2011 and marked this amount as a rent payment.

The Tenant states that on September 6, 2011 at 5:30 a.m. the Landlords entered her unit and demanded that the Tenant move out by the day’s end. The Tenant states that

when she returned home to the unit at 9:00 p.m. that night all her belongings were piled outside the unit under a shed. The Tenant states that the police were called and attended the unit. The Tenant states that the Landlords then offered the Tenant a return of rent for the month of September 2011 in the amount of \$500.00 if the Tenant would move out of the unit the next day. The Tenant states that the Landlords were told by the police to return the belongings back into the unit for the night.

The Tenant states that on returning the next day, the police were called again for security and the Tenant's belongings were still outside. The Tenant states that the Landlord then refused to return the rent payment and the police suggested that the Tenants make a claim with the Residential Tenancy Branch. The Tenant states that she rented a truck to haul her belongings away and claims the cost of \$110.00. No receipt was provided. The Tenant states that upon going through her personal belongings after removing them from the unit, she discovered that she was missing a gold ring, a gold necklace and a pair of gold earrings. The Tenant states that she does not know the value of the missing jewellery but estimates the value at \$4,000.00. The Tenant states that the groceries left outside were broken or damaged and required replacement in the amount of \$250.00. The Tenant claims the return of her jewellery or compensation in the amount of \$4,000.00 for the loss of the jewellery, the amount of \$250.00 for lost food, \$450.00 for the return of September rent and \$110.00 for the cost of the truck rental. The Tenant clarifies that her claim for an order compelling the Landlord to act is in relation to the return of her jewellery or the payment of compensation.

The Landlord does not deny that the Tenant was asked to move out of the unit but states that she was asked to move out of the unit by the end of the month. No Notice was given to the Tenant for the ending of the tenancy by the Landlord. The Landlord states that the Tenant did not pay the rent so they wanted her to leave. The Landlord does not deny placing the belongings of the Tenant outside the unit but states that the Tenant asked the Landlord to do this and that the Tenant told the Landlord she would

retrieve the belongings at a later date. The Landlord denies taking the Tenant's jewellery.

### Analysis

Section 7 of the Act provides that if a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Section 447 of the Act provides that the landlord may end a tenancy if the tenant is repeatedly late paying rent by giving the tenant a notice that must comply in form and content with the Act and regulations. By evicting the Tenant without serving a duly completed Notice and removing the Tenants belongings, I find that the Landlord acted out of compliance with the Act. As a result of the Landlord's actions, the Tenant states that she suffered a loss of food items and incurred a cost to pick up her belongings from outside the unit. Although the Tenant did not provide receipts for the groceries or the truck rental, accepting that the Landlord ended the tenancy without compliance with the Act, I find that the Tenant is entitled to a nominal amount of **\$150.00**.

Given the discrepancy between the Parties on the amount of rent payable, the Tenant's bank records are not conclusive of the amount of rent payable. I find however that the Tenant has proven on a balance of probabilities that some amount of rent was paid for the month of September 2011 and as the Tenant was unable to occupy the unit for this month, I find that she has suffered a loss as a result of the Landlord's actions and is entitled to the amount of **\$450.00** in compensation. As the Tenant failed to provide any supporting evidence of the loss of her gold jewellery, I dismiss this part of the Tenant's claim. The total entitlement of the Tenant is **\$600.00**.

### Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$600.00**. If necessary, this order may be filed in the Small Claims Court 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: October 13, 2011.

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Residential Tenancy Branch