



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Prospero International Realty Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF, LRE, MNDC, O, OLC, RPP, AS

### Introduction

This matter was originally scheduled to be heard on September 3, 2013. The tenant had served late evidence to the landlord and both parties agreed to adjourn the matter to allow the landlord to review the evidence in hopes to resolve some of the issues. At the outset of today's hearing the tenant and his advocate advised that none of the issues had been resolved and that they requested to adjourn the matter to allow them to submit further evidence and arrange witnesses. The landlord opposed the request. The tenant is the applicant in this matter and initiated this process on June 27, 2013. The tenant had ample opportunity to provide any documentation and to arrange witnesses or their sworn statements if he wished to rely on them. I declined to adjourn the matter and the hearing proceeded as scheduled.

This hearing dealt with an application by the tenant seeking a monetary order for money owed or compensation for damage or loss under the Act, regulation or the tenancy agreement, an order to have the landlord comply with the Act, regulation or tenancy agreement, an order returning the tenants personal property, an order to suspend or set conditions on the landlords right to enter the rental unit, an order to authorize the tenant to change the locks to the rental unit. Both parties participated in the conference call hearing. Both parties participated in the teleconference hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the tenant entitled to any of the above under the Act, regulation or tenancy agreement?

### Background and Evidence Analysis

The tenancy began on or about November 29, 1996. Rent in the amount of \$875.00 is payable in advance on the first day of each month. There are 71 units in this apartment complex.

As the tenant is the sole applicant in this matter I will address the tenants' claims and my findings as follows:

**Tenants First Claim** – The tenant is seeking the return of his personal property. The landlords have offered the tenant to pick up the items on numerous occasions. The landlords have no issue with returning the items. The parties agreed that this matter could be resolved outside this hearing by scheduling a date and time for the tenant to pick up his belongings. Based on the above agreement no further action is required from the Branch in this regard.

**Tenant's Second Claim** – The tenant is seeking to have the landlords comply with the Act, suspend or set conditions on the landlords' right to enter the rental unit and to authorize the tenant to change his locks. The tenant gave testimony that the resident manager had entered his suite on numerous occasions without giving proper notice and without his authorization. The tenant stated that he "suspected" it was her and that he had video evidence to support his claim. The tenant stated that he knew someone was in his unit as he noticed items had been moved from their original position. The resident manager disputes this allegation. The resident manager stated that she has never entered this unit or any other unit without proper notice. The tenant stated he had video and photographic evidence to support his claim however he did not provide that for today's hearing. In the tenant's own testimony he stated he "suspected" it was the

resident manager but did not actually ever see her in his unit. Based on the insufficient evidence and the contradictory testimony of the tenant I must dismiss this portion of the tenants' application.

**Tenants Third Claim** – The tenant is seeking \$4712.50. The tenant stated that he had been the subject of ongoing harassment from the landlords, specifically the resident manager. The tenant stated it reached a point where the resident manager assaulted him and that the police attended. The tenant stated that police advised him that they could not lay any charges as he did not have any visible wounds and that this “didn’t qualify for assault”. The resident manager adamantly denied this allegation.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The tenant has failed to satisfy me on all four of the above grounds. I find that the landlords are conducting themselves appropriately and in accordance with the Act, regulation and the tenancy agreement.

The tenant has not been successful in his 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: October 15, 2013

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Residential Tenancy Branch

