



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MNDC, OLC, RPP, O

### Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel a One Month Notice to End Tenancy for cause, for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; For an Order for the landlord to comply with the Act, regulations or tenancy agreement, and for an Order for the landlord to return the tenants personal property.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other and witness on their evidence. The tenant provided some limited documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing All evidence and testimony of the parties has been reviewed and are considered in this decision..

At the outset of the hearing the parties advised that the tenant is no longer residing in the rental unit, and therefore, the tenant withdraws the application to cancel the Notice to End Tenancy.

### Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

- Is the tenant entitled to an Order for the landlord to comply with the Act, Regulation or tenancy agreement?
- Is the tenant entitled to an Order for the landlord to return the tenants personal property?

### Background and Evidence

The parties agree that this tenancy started on September 01, 2013. There was a verbal agreement between the parties for the tenant to rent a shared unit for \$400.00 per month. The tenancy ended on January 31, 2014.

The tenant testifies that the landlord removed some of the tenants belongings from the unit. The missing items are as follows

A stainless steel cook pot valued at \$20.00

A frying pan valued at \$20.00

Ray-Ban Sunglasses valued at \$160.00

Swiss Army knife valued at \$20.00

Triple A batteries valued at \$5.00

Rolls of paper towel valued at \$2.00

Winter snow pants valued at \$50.00 to \$60.00

Camping hatchet valued at \$20.00.

The tenant testifies that the landlord would enter the tenant's room and common areas whenever she wanted to without notice or permission. The missing items were located in these areas of the unit and the tenant testifies that the landlord has taken them. On one occasion the landlord removed the cook pot, later returned it and then removed it again. The tenant agrees that he did not see the landlord remove any of these items however they are all missing. The tenant seeks compensation for these missing items of \$200.00.

The tenant seeks an Order for the landlord to comply with the *Act* and seeks an Order for the landlord to return the tenants belongings as listed above.

The landlord disputes the tenants claim. The landlord testifies that she has never taken any items belonging to the tenant from the unit. The landlord testifies that there is nothing now left in the unit that belongs to the tenant.

The tenant calls his witness KE. The witness testifies that he noticed pots and pans and other items going missing while he lived in the unit for a month. The witness testifies that he did not actually see the landlord take any of these items.

The tenant testifies that the landlord's former boyfriend and the landlord's current boyfriend both threatened the tenant. The tenant agrees there was an altercation with the landlord's boyfriend who came to the unit and punched the tenant. The police were called and this person was arrested and charged with assault. The tenant testifies that the police did not charge the tenant with assault. The tenant testifies that due to the landlords actions and the actions of the landlord's boyfriend the tenant lost quiet enjoyment of the rental unit.

The landlord disputes the tenants claim. The landlord testifies that there had been as many as six or eight visits from the police to the tenants unit. Many of the tenants guests were homeless and one of these people were escorted out of the unit by the police. The landlord testifies that the tenant and the landlord's friend were both charged with assault as the tenant hit the landlord's friend who had gone to the unit to help the landlord and an altercation broke out between the two men. The landlord agrees that the police did arrest her friend.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties and witness. The landlord declined to call her witness to give testimony.

With regard to the tenants claim that the landlord has removed some of the tenants belongings from the unit, The tenant has the burden of proof in this matter and the landlord disputes that she removed any of the tenants belongings and testifies that none of the tenants belongings remain in the unit after the tenant vacated the unit.

Consequently when one party's evidence or testimony contradicts that of the other then the tenant should provide corroborating evidence to meet the burden of proof. In the absence of any corroborating evidence from the tenant this becomes one person's word against that of the other and therefore the burden of proof is not met. I must therefore dismiss the tenants claim for \$200.00 compensation for these missing items.

With regard to the tenants claim that the landlord breached the covenant of quiet enjoyment; again the parties testimony contradicts each others and as the burden of proof lies with the tenant in this matter it is one person's word against that of the other and the burden of proof has not been met. This section of the tenants claim is therefore dismissed.

With regard to the tenants claim for an Order for the landlord to comply with the Act, regulation or tenancy agreement; as this tenancy has ended I am not required to deal with this section of the tenants claim because even if proven no Orders would be enforceable now a tenancy no longer exists between the parties. This section of the tenants claim is therefore dismissed.

With regard to the tenants claim for an Order for the landlord to return the tenants personally property; the tenant has insufficient evidence to show the landlord has any of the tenant's property in the landlord's possession. Consequently, the tenants application for property to be returned is dismissed.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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: February 12, 2014

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Residential Tenancy Branch

