



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HUI YUAN INVESTMENT CANADA  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: RP ERP RR PSF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) To obtain an order for the return of his personal property or a monetary order for its value;
- b) To obtain a monetary order as compensation for illegal eviction;
- c) That the landlord obey the provisions of the Act and allow the tenant access to the premises pursuant to section 30;
- d) To obtain an Order of Possession for the tenant.

Service:

There is no Notice to End Tenancy. The tenant /applicant gave evidence that they served the Application for Dispute Resolution on March 11, 2014 by registered mail. It was confirmed online as successfully delivered to both the commercial landlord and an individual. I find the documents were legally served for the purposes of this hearing.

### **Issue(s) to be Decided:**

Has the tenant proved on the balance of probabilities that he was illegally evicted on or about March 6, 2014 and that he is entitled to compensation for illegal eviction and an Order for him to retrieve his personal property? Has he proved on the balance of probabilities that he is entitled to a monetary order to compensate him for his lost property and if so, to how much has he proved entitlement?

### **Background and Evidence**

The landlord did not attend the hearing. The tenant and a witness attended and were given opportunity to be heard, to provide evidence and to make submissions. The evidence is that the tenancy commenced in June 1, 2012, it is now a month to month tenancy, rent is \$1000 a month and a security deposit of \$500 was paid on June 2, 2012. The tenant said the utilities were in his name and he paid them all on time. He

said he also sublet to some other persons. He enclosed photographs of a home with two outbuildings and many boxes of items scattered around.

He said that on or about March 6, 2014, a man who would not identify himself entered his premises and told everybody to get out. He said they had no opportunity to retrieve their personal belongings and he had valuable books and tools as illustrated in the photographs. He said Police were called when he tried to re-enter. He said he has been sleeping at a church since he was forced to leave.

He does not request an Order of Possession to take possession of the premises again as he said a lot of unidentified persons came into the property after he left and stripped the copper wire and stole other items. He said the home is likely not inhabitable now. He requests an Order that he be allowed to enter the premises on two consecutive days in daylight, preferably April 17<sup>th</sup> and 18<sup>th</sup>, between the hours of 9:00a.m. and 5 p.m. to retrieve any of his personal property remaining and to search for receipts for missing items. He also requests some compensation for illegal eviction which has resulted in him being homeless for March and now April.

Included with the evidence is a copy of the 2012 lease, registered mail receipts, photographs of scattered belongings around a home and two outbuildings, receipts for payment of rent up to February 2014 and some handwritten notes which the tenant said were written by another tenant.

**Analysis:**

I find the tenant's evidence credible that he was illegally evicted as there is no evidence of a formal Notice to End Tenancy and his evidence is supported by a witness. Section 52 of the Act requires the landlord to give a Notice to End Tenancy in the proper form. Sections 44 and 45 provide for ways which a tenancy may legally end. I find no evidence that this tenancy was ended legally. As the tenant was illegally evicted/locked out contrary to sections 28, 29, 30 and 31 of the Act and forced to leave all his belongings behind, I find him entitled to compensation for the inconvenience and humiliation caused to him by this illegal act of the landlord. I find him entitled to a monetary order for \$3,000 which is the equivalent of three months of the rent that he paid previously; this should assist him to get re-established in a home with some personal belongings. The fact that he is able to sleep free in a church, I find does not excuse the actions of the landlord or of his obligation to compensate the tenant as they appear to have used strong arm methods to evict the tenants illegally. I find it credible that the tenant no longer requests an Order of Possession as vandals have rendered the home uninhabitable.

I find him entitled to an Order that the landlord allow him to enter the premises on two successive days to retrieve his goods, ascertain if any items are missing and obtain evidence of their value. I dismiss his Application to obtain compensation for missing personal property as he has insufficient evidence of what is missing and its value. I give him leave to reapply for this compensation.

**Conclusion:**

I find the tenant entitled to a monetary order for \$3,000 to compensate him for illegal eviction by the landlord which caused him to be homeless. I dismiss the claim of the tenant for compensation for loss of his personal property and give him leave to reapply when he has ascertained its value. His reapplication must be within legislated time limits. I note that the tenant should consider having an interpreter or an assistant to help with further claims.

**I HEREBY ORDER THE LANDLORD to allow the tenant unrestricted access to the premises on APRIL 17<sup>TH</sup> AND 18<sup>TH</sup>, 2014, for the purpose of retrieving any of his personal property remaining on the premises and obtaining evidence of missing items and their value.**

.

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: April 08, 2014

---

Residential Tenancy Branch

