



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, PSF, RR, FF

### Introduction

This was an application for rent reduction, to compel the landlord to provide services, and for compensation for the failure of the landlord to provide services and or reduction in the square footage rented. Both parties attended the hearing.

### Issue(s) to be Decided

Did the tenancy agreement include the use of a garage, storage closet and basement?

Is the tenant entitled to compensation for the loss of use of any of these areas?

### Background and Evidence

The applicant/tenant testified that he entered into a tenancy agreement in writing with the landlord on January 7, 2014 for a fixed term ending on June 7, 2014 with rent in the amount of \$ 3,500.00 per month. The tenant's own house was acquired temporarily by a local TV production hereinafter referred to as GP. GP introduced him to the landlord and the tenant negotiated his own tenancy agreement. GP paid for his rent with the landlord. The tenant was shown the unit by the landlord in the presence of a GP location manager prior to signing the agreement. The tenant testified that he was promised that the unit would include the basement, garage and storage closet on the second floor. He testified that the landlord promised to remove her personal storage items from those spaces. He testified that he advised the landlord of his exact needs and what items he was intending to store such as a car, several bicycles, tools and hockey equipment. The tenant testified that within a month he noticed that the landlord had not removed her personal items from the disputed areas. He requested her to do so. She wrote to him denying that those areas were included in the tenancy but offered him some shared

use. After a further exchange the tenant put the landlord on notice that he would remove her items unless she did. On March 5, the landlord after giving prior notice, removed the tenant's belongings from all the aforementioned areas and locked the areas making them inaccessible to the tenant. The tenant testified that subsequent to March 5, 2014 he no longer had access to these areas and lost the use of his personal space as the landlord placed all of his belongings that were in those areas into the rest of the unit. The tenant is claiming that the rent ought to be reduced by 33% or \$ 1,155.00 per month and that the landlord ought to reimburse him an additional expense of storage at \$ 300.00 per month for the duration of the tenancy.

The landlord testified that a written tenancy agreement was entered into for the unit and that the basement, garage and storage closet were excluded by not being mentioned in the "items to be included " in the actual agreement. She testified that the tenant was advised of those exclusions on the day he inspected the unit. The landlord referred to the tenancy agreement which was silent as to these spaces, the condition inspection report dated January 8, 2014 signed by the tenant in which those areas were marked as N/A or not applicable. Both the landlord and tenant referred to an email dated March 4 from a location manager at GP addressed to the tenant which states:

"...I do not recall any discussion to making space available to you in the garage nor is it part of the agreement you signed.... Perhaps you can find a rental/storage space close by .....and we can cover that cost."

The landlord testified that she offered to share some of the storage spaces with the tenant, but when he demanded that she remove all of her property or he would, she removed his property and locked the spaces on March 5, 2014.

### Analysis

The terms of contract of tenancy must be certain and agreed upon to be enforceable. Section 6 of the Act states:

#### **Enforcing rights and obligations of landlords and tenants**

6 (1) The rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement.

(3) A term of a tenancy agreement is not enforceable if

(c) the term is not expressed in a manner that clearly communicates the rights and obligations under it.

Section 21 of the Regulations states:

**Evidentiary weight of a condition inspection report**

- 21** In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

I find that there is conflicting evidence as to what areas of the unit each party thought they were agreeing to rent. That combined with the ambiguity of the written agreement, that the condition inspection report states that those areas are “not applicable” and section 6 (3) of the Act all lead me to conclude that the parties never had a “meeting of the minds” as to whether the areas of the basement, garage or storage closet were to be included in the tenancy agreement. I find that those areas were not part of the tenancy agreement. I have dismissed the tenant’s application for compensation, for rent reduction and to provide storage services.

**Conclusion**

I have dismissed all of the applications herein. There will not be any recovery of the filing fee herein.

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 29, 2014

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Residential Tenancy Branch

