



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            RPP, OPT

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession for the rental unit and an order requiring the landlord to return the tenant's personal possessions.

The parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter-* In this case, the landlord confirmed that he did not serve the applicant/tenant with his documentary evidence. The landlord was advised that his documentary evidence was being excluded due to his failure to comply with the Rules, specifically sections 4.1, which states that the respondent must serve their evidence to the Residential Tenancy Branch ("RTB") and the other party at least 5 days prior to the hearing.

The landlord was allowed to testify about and from his evidence.

### Issue(s) to be Decided

Is the tenant entitled to a return of her personal property and for an order of possession for the rental unit?

### Background and Evidence

The undisputed evidence shows that this tenancy began on June 15, 2011, monthly rent is \$700, and the tenant paid a security deposit of \$350.

The undisputed evidence also shows that there was a written tenancy agreement showing that there are two tenants, the applicant/tenant here and WR, as co-tenants.

*Tenant's oral evidence-*

In support of her application, the tenant's security deposit that she left the rental unit on a 3 month, temporary basis to attend school, out-of-town.

The tenant submitted that on May 20, 2014, WR called the tenant at her temporary residence and informed her that the landlords had changed the locks to the rental unit and removed her as a tenant from this tenancy. WR further stated that the landlords allowed other tenants to move into the rental unit with him.

The tenant contended, as a result, that she was entitled to an order of possession for the rental unit in order to move back to the rental unit and to have her personal property. The tenant stated that most of the personal property in the rental unit belonged to her, and that she did not have access to the premises.

In response to my question, the tenant confirmed that she did not contact the landlords when she received the telephone from WR, and did not contact them when she returned to town upon on May 30.

I further asked the tenant if she had been in contact with WR, and she said that she had not been. The tenant further confirmed that she had not attended the rental unit to ensure if the locks had been changed.

*Landlord's response-*

The landlord submitted that they had not changed the locks to the rental unit, had not allowed other tenants into the rental unit, did not know that anyone else had moved into the rental unit, and did not know these other people if that was the case.

The landlord submitted further that they did not know that the tenant had left the rental unit for three months, due to the lack of communication from the tenant.

The landlord submitted that they were in contact with WR on June 12, when he paid the rent late, and that he never mentioned to them that there were other people living in the rental unit.

The landlord submitted that the tenant was still on the tenancy agreement, and that they want the tenants to move, due to unpaid rent and repeated late payments.

Analysis

After reviewing the evidence, I find the tenant submitted insufficient evidence that the landlords have deprived the tenant of the use of the rental unit or seized her personal property.

The tenant, with just one phone call from her co-tenant, made the assumption that the landlords had changed the locks to the rental unit; however, the tenant confirmed that she did not try the locks with her key to see if they were changed.

The tenant further confirmed that she did not go by the rental unit to verify that other tenants lived in the rental unit, or that she did not contact the landlord to discuss the allegations made by WR.

I would expect that the tenant would at least attend the rental unit to confirm either or any of the allegations that she has made in the application.

Without proof that the landlords actually changed the locks or seized her personal property, I find the tenant has submitted insufficient evidence to support her application as she has submitted no evidence that she is being deprived of the use and possession of the rental unit or her personal property by the landlords. I accept the testimony of the landlords that they knew nothing of a lock change or that someone not listed on the tenancy agreement was living in the rental unit.

I therefore dismiss the tenant's application, as the evidence supports that the issues may be related to a dispute with her co-tenant, which is not subject to the jurisdiction of the Act.

### Conclusion

The tenant's application is dismissed.

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: July 2, 2014

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Residential Tenancy Branch

