



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, O

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement and other issues.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served by registered mail on September 09, 2014. Canada Post tracking numbers were provided by the tenant in documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

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

### Background and Evidence

The tenant testified that prior to the start of the tenancy the landlord allowed the tenant to store his antique table and chairs in the rental unit as the landlord was using it as storage at that time. The tenant and the tenant's witness took the table and chairs to the rental unit on a date on or about August 05 2013.

The tenant testified that he agreed to rent the unit in September, 2013. The landlord was in the process of renovating the bathroom so the parties agreed the tenant could move into the unit when this work was finished in about a month. The tenant testified that he met the landlord on September 25, 2013 and agreed that the rent would be \$450.00 per month. The tenant paid \$600.00 to the landlord; of this \$450.00 was the rent for October, 2013 and the other \$150.00 was to be used as either the security deposit or as part payment towards rent for November, 2013.

The tenant testified that prior to the start date of the tenancy the tenant found he was unable to move into the unit due to personal reasons. The tenant spoke to the landlord and explained he could not move in. The landlord agreed to return the \$600.00 paid by the tenant. The tenant had numerous conversations with the landlord and the landlord kept saying she would refund the \$600.00 but never followed through with this. In January and February, 2014 the tenant was admitted to hospital and when he was out in March, 2014 he again contacted the landlord about the refund in rent. The landlord was still saying the tenant could pick up the \$600.00 and was supposed to call the tenant back with a date and time to do so. The landlord did not call the tenant back and the tenant seeks a Monetary Order to recover the \$600.00 paid.

The tenant testified that the landlord said the tenant could collect his table and chairs when he came to pick up his rent. Sometime after this the landlord informed the tenant that she had thrown away his table and chairs. Sometime in October, 2014 another lady called the tenant, who he did not know, and she said the tenant's table and chairs had appeared at the landlord's house and the tenant could go and pick them up. The tenant

testified that he did not know what was happening as only two months before the landlord had told the tenant she had thrown the table and chairs out. The tenant testified that the table and chairs are solid oak and are worth \$1,000.00. The tenant seeks a Monetary Order to recover the cost of these items from the landlord.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the tenant.

With regards to the tenant's claim to recover \$600.00 from the landlord; when a tenant pays rent for a unit the tenant enters into an agreement with the landlord to rent this unit from a certain date. The tenant testified that he was supposed to take possession of the unit on October 01, 2013 after the landlord had renovated the bathroom. The tenant paid rent for October plus an additional amount of \$150.00. When a tenancy agreement has been entered into either written or verbal then the parties must abide by the agreement. The tenant later found out he could not move into the unit but would have been required to provide one clear month written Notice to end the tenancy. Therefore as the tenant did not provide written notice to end the tenancy I find the landlord is entitled to keep the rent paid for October, 2013 of \$450.00 as the earliest the tenant could have ended the tenancy had he given written notice would have been October 31, 2013.

The additional amount of \$150.00 was not confirmed as either rent for November or as a security deposit to be held in trust by the landlord until the end of the tenancy. I therefore find the tenant is entitled to recover the amount of \$150.00 from the landlord pursuant to s. 67 of the *Act*.

With regard to the tenant's claim for \$1,000.00 for the antique table and chairs; the tenant left these items in the rental unit and these may or may not now be in the landlord's home. I am not prepared to issue a Monetary Order to the tenant to recover the cost of the table and chairs if the landlord still has these items in her possession. I

will; however, issue an Order for the landlord to return the tenant's table and chairs, in the same condition, on or before April 30, 2015 at a mutually agreed time and date that the tenant will collect these items. The tenant must write to the landlord with a time and date; if this date or time is not convenient to the landlord the landlord may request an alternative time and date prior to April 30, 2015.

If the table and chairs are not returned to the tenant as stated above, the tenant should provide copies of letters sent to the landlord requesting the return of the table and chairs and the date and time the tenant will collect the table and chairs and is at liberty to file a new application for monetary compensation for the cost of the table and chairs.

### Conclusion

For the reasons set out above, I grant the tenant a Monetary Order pursuant to Section 67 of the *Act* in the amount of **\$150.00**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

I Order the landlord to return the tenants table and chairs on or before **April 30, 2015**.

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: March 30, 2015

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Residential Tenancy Branch

