



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT, CNR, RPP, MNDC

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 46;
2. A Monetary Order for compensation - Section 67; and
3. An Order for the return of personal property - Section 65.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions. A Witness for the Tenant also gave evidence.

### Preliminary Matter

At the onset of the hearing the Parties agreed to settle the dispute over the notice to end tenancy by entering into a mutual agreement set out below:

**The Parties mutually agree as follows:**

- 1. The tenancy will end on or before 1:00 p.m. on January 31, 2016; and**
- 2. These terms comprise the full and final settlement of all aspects of this dispute for both Parties.**

Section 63 of the Act provides that if the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or order. Given the mutual agreement between the Parties I find that the matter of the end of the tenancy has been resolved. In order to give effect to the agreement I provide an order of possession to the Landlord.

Issue(s) to be Decided

Did the Landlord damage and remove the Tenant's personal property?

Background and Evidence

The tenancy started on February 1, 2015.

The Tenant states that on November 15, 2015 a notice to end tenancy for unpaid rent was received from the Landlord, taped on the door. The Tenant states that on the same day tarps covering the carport were discovered to be cut and tools, including some that belonged to her neighbour, the Witness, were taken from the carport. The Tenant states that the police were called. The Tenant claims that the Landlord carried out these acts. The Tenant claims \$400.00 and states that estimates for the missing items were researched at various stores in person and noted on the monetary worksheet. The Tenant states that on December 4, 2015 an unknown man came to the unit and threatened to physically remove the Tenant. The Tenant states that this was not reported to the police. The Tenant provided before and after photos of the tarps and carport.

The Tenant's Witness states that on November 15, 2016, while walking by the Tenant's unit, he saw a man cutting the tarps covering the car port. The Witness provided a description of the man and his vehicle. The Witness states that he does not know what the Landlord looks like. The Witness states that he did not provide this evidence to the police.

The Landlord states that he was not at the unit on November 15, 2015 and did not damage or remove the Tenant's belongings. The Landlord states that the only time he was at the unit during November 2015 was on the first day of the month to collect rent and to serve the notice to end tenancy. The Landlord states that the police came on November 1, 2015 when the Landlord was there asking for rent. The Landlord states that a bylaw officer was also with the Landlord at the unit due to complaints that were being received by the city and that the Landlord was told that he would be fined if the rental unit was not cleaned up. The Landlord states that the Tenants agreed to clean the area.

### Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Section 28 of the Act provides that a tenant has exclusive possession of the rental property and a landlord may not enter the property without following required notice or permission provisions under the Act.

While the photo evidence supports that the tarps were purposely cut and I can accept that vandalism and theft occurred at the unit, the Tenant's evidence that the Landlord was responsible is based solely on the Witness evidence. The Witness, who had tools in the carport, did not inform the police of having witnessed the incident and therefore providing the police with a description of the person seen carrying out the damage to the tarps. This seems odd and does nothing to support the credibility of the evidence.

As the Tenant provided no other evidence to support the claim of damage by the Landlord and given the Landlord's plausible denial, I find on a balance of probabilities that the Tenant has not shown that the Landlord did anything to interfere with the Tenant's property and I dismiss the claim for compensation and return of belongings.

### Conclusion

The Parties have settled the dispute over the end of the tenancy.

I grant the Landlord an Order of Possession effective 1:00 p.m. on January 31, 2016.

The Tenant's remaining claims are 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: January 15, 2016

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Residential Tenancy Branch

