



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      OPR, MND, MNR, MNSD, MNDC, RPP, MNSD, FF

### Introduction

This hearing dealt with two related applications. One was the landlords' application for an order of possession, a monetary order and an order permitting retention of the security deposit in partial satisfaction of the claim. The other was the tenant's application for return of the security deposit and return of personal property.

Both parties appeared and gave affirmed evidence.

No issues with service of the Applications for Dispute Resolution or evidence were identified.

The tenant confirmed that he has moved out of the rental unit. This rendered the landlords' application for an order of possession moot.

### Issue(s) to be Decided

- Are the landlords entitled to a monetary order and, if so, in what amount?
- Is the tenant entitled to an order for return of personal property and, if so, on what terms?
- What disposition should be made of the security deposit?

### Background and Evidence

The landlords own three rental houses on the same property. Their son and his girlfriend live in one. The landlords rented the small house beside it to the girlfriend's sister, T. That tenancy started in February or March of 2015. At some point, the tenant moved in with T.

In July the landlords served T with a 1 Month Notice to End Tenancy for Cause, however, she was incarcerated before the effective date of the notice.

The tenant wanted to stay in the rental unit and the landlords liked him so they entered into a new tenancy agreement. The monthly rent of \$475.00 was due on the first day of the month. The tenant paid a security deposit of \$237.50.

T was released from prison and moved back into the rental unit at the end of October or the beginning of November. It appears that a number of issues between the various parties arose that fall. The tenant's testimony referred to personal items removed from the attic storage space. He made it clear that he did not suspect the landlords of having removed those unspecified items.

From the time he moved in the tenant did work for the landlords around the property in return for a discount equal to half of month's rent. The tenant also mentioned that he had not been paid for materials he had purchased for repairs. Both parties testified that from November onward the tenant did not do any more work around the property and did not pay any rent.

On December 2 the landlords served the tenant with a 10 Day Notice to End Tenancy for Non-Payment of Rent. The tenant did not move out of the rental unit until mid-January. He did not give the landlords written notice to end tenancy nor did he ever provide the landlords with his forwarding address in writing. He said he told the landlords' son where he was moving.

T stayed in the rental unit after the tenant moved out. Eventually the police were involved in the efforts to have T and her friend removed from the rental unit.

The landlord says the tenant did not leave the keys when he moved out. They submitted invoices for a new post office key and door key totalling \$46.11. The tenant said he left the mailbox key in the porch.

While the tenant and/or T lived in this unit a large volume of material accumulated in the house and around it. The landlord acknowledged that not all of the material in the yard was because of the tenant or T; and that her son and his girlfriend also contributed to the accumulation. They had a dumpster on site in the summer to clean up their son's stuff as well as T's.

The landlord submitted photographs of the exterior of the home showing a large quantity of material around it. She testified that the interior of the house was also full and she paid three people \$50.00 each to clean up the interior. She also submitted a receipt for dumping fees in the amount of \$37.05.

The landlord has not started any of the repairs to the interior and has not finished cleaning up the yard. The landlords have decided not to rent this home again.

### Analysis

The tenant did not establish a legal reason for withholding the rent. He is responsible for three months unpaid rent in the total amount of \$1425.00.

Section 37(2)(b) of the *Residential Tenancy Act* provides that a tenant must give the landlord all the keys at the end of the tenancy. Just leaving the keys somewhere in the rental unit does not comply with the legislation. The tenant is responsible for the cost of replacing the keys, \$46.11.

The tenant is responsible for the actions of anyone he allowed on the property. After looking at the photographs I am satisfied that the claim of \$187.05 for labour and dump fee represents only a portion of what it will cost to clean up this property. I allow this portion of the landlords' claim.

All other claims by the landlords for repairs and/or clean-up are dismissed with leave to re-apply as those repairs and clean-up have not yet been made.

According to the tenant's testimony his claim for return of personal property is not against the landlords. Accordingly, this claim is dismissed.

#### Conclusion

- a. I find that the landlords have established a total monetary claim of \$1728.16 comprised of arrears of rent in the amount of \$1425.00, key replacement in the amount of \$46.11, clean-up costs in the amount of \$187.05, and the \$100.00 fee paid by the landlords for this application. I order that the landlords retain the deposit of \$237.50 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of \$1520.66. If necessary, this order may be filed in Small Claims Court and enforced as an order of that court.
- b. All other claims by the landlords are dismissed with leave to re-apply.
- c. The tenant's claim for return of personal property 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: April 21, 2016

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Residential Tenancy Branch