



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes

RPP MNDC MNSD FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

All named parties attended the hearing.

Preliminary Issue – Scope of Application / Adjournment of monetary application

Prior to the filing of this application, the landlord filed its own application requesting monetary compensation for loss of rent and to retain the tenant's security deposit. The landlord's application is scheduled to be heard at 9:30 a.m. on December 3, 2018. The tenant's application was not scheduled as a cross application as the tenant's application identified an issue not related to monetary compensation.

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the tenant's application to request an order requiring the landlord to return personal property, I am exercising my discretion to sever the remainder of the issues identified in the tenants' application as these matters are not related. These issues are adjourned to be heard simultaneously with the landlord's application for dispute resolution which is scheduled to be heard at **9:30 a.m. on December 3, 2018.**

Settlement of dispute relating to Return of Personal Property

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. The parties expressed an interest and were successful in resolving the dispute relating to the tenant's application for return of personal property by mutual agreement under the following final and binding terms:

1. The tenant is claiming the landlord is still in possession of her personal belongings consisting of one multicolor speed bike, one Vorland bike and one set of drapes. The landlord acknowledged they are in possession of at least one bike that they are aware of and a set of drapes.
2. The landlord agreed to provide the tenant with access to the rental building at **2:00 p.m. on Sunday, November 4, 2018** to retrieve the remainder of her belongings.
3. If there is any discrepancy in the items returned, the tenant is at liberty to file an amendment to her existing application for monetary compensation scheduled to be heard on December 3, 2018. As with any claim for monetary compensation, the onus would be on the applicant to provide proof of the loss claimed and that the respondent should be held liable for this loss.

Each party confirmed that this agreement was reached voluntarily and that they understood the terms of the agreement.

This Decision and Settlement Agreement is final and binding on both parties.

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: October 29, 2018

Residential Tenancy Branch