



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPT

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for an order of possession.

Only the tenant and the tenant's legal counsel appeared. As the landlords did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on October 30, 2020, Canada post tracking numbers were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlords were deemed served on November 4, 2020 in accordance with the Act.

At the outset of the hearing the tenant stated that they are not planning to move back into the rental unit; however, the landlord locked them out of the rental unit, and they have not been able to get their personal belongings. The tenant stated that the landlord is refusing to allow them access to retrieve their personal belongings which they need for work and for their family living.

In this case, the tenant is not seeking to move back into the rental premise. Therefore, I dismiss their application for an order of possession.

Although the return of the tenant's personal belonging, is not formally before me; however, I find there was sufficient details in the tenant's application that they were seeking the return of their personal belongs.

Therefore, I make the following orders,

**I order the landlords that they must contact the tenants at the email address that I have noted on the covering page of this decision, within 3 days after receiving a copy of this decision to make arrangements with the tenants to pick up their personal property.**

Should the landlords fail to return the tenants' personal property, the tenants are at liberty to make a claim for monetary loss or damage. A landlord is not entitled to keep, remove, or destroy the tenant's personal property without the authority of the Act. I make no finding on this issue.

#### Conclusion

The tenants' application for an order of possession is dismissed. I order the landlords that they must return to the tenants their personal belongings. Failing to do so, could result in a further claim for monetary loss.

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: November 13, 2020

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Residential Tenancy Branch