



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDCT FFT

### **Introduction**

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

- a monetary order for compensation for money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlords confirmed receipt of the application for dispute resolution ('application'). In accordance with section 89 of the *Act*, I find that the landlords duly served with the application. As both parties confirmed receipt of each other's evidentiary materials, I find that these documents were duly served in accordance with section 88 of the *Act*.

### **Issue(s) to be Decided**

Are the tenants entitled to a monetary order for compensation and losses that they have applied for?

Are the tenants entitled to recover the filing fees for their application?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or

arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This fixed-term tenancy began on August 1, 2020, with monthly rent set at \$1,400.00, payable on the first of the month. The landlords had collected a security deposit in the amount of \$700.00, which was returned to the tenants. It was undisputed that the tenants had paid the entire monthly rent for December 2020.

The tenants filed their application for a monetary order for the return of a portion of their monthly rent in the amount of \$350.00 plus recovery of the filing fee. The tenants testified that despite the fact that they had possession of the rental unit until December 31, 2020, the landlords had changed the locks on December 25, 2020. The tenants testified that the landlords had also removed their personal belongings, which included 2 pillows and a blanket, without the tenants' permission, and left it outside. The tenants testified that they had returned the keys to the landlords through the police after they discovered that the landlords had changed the locks.

The landlords do not dispute that they had changed the locks on December 25, 2020, and that they had removed the above items. The landlords testified that they had believed that the tenants had vacated the rental unit as the tenants had cut off the electricity as of December 12, 2020, and the tenants had appeared to have vacated the rental unit. The landlords testified that the tenants had originally wanted to end the tenancy on December 15, 2020, but the landlords had informed the tenants that they were responsible for paying the entire monthly rent for December 2020. The landlords testified that the rental unit was completely vacant with the exception of the items that were to be sold to the new tenants, and a couple items such as the pillows and blanket.

### **Analysis**

Section 31 of the *Act* states as follows:

#### **Prohibitions on changes to locks and other access**

**31** (1) A landlord must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.

(1.1) A landlord must not change locks or other means of access to a rental unit unless

(a) the tenant agrees to the change, and

(b) the landlord provides the tenant with new keys or other means of access to the rental unit.

It is undisputed that the landlords had changed the locks to the rental unit on December 25, 2020. The landlords' explanation was that they believed that the tenants had vacated the rental unit. It is also undisputed that the tenants had paid the entire monthly rent for December 2020. The tenants' testimony was that they have yet to give vacant possession back to the landlord, and the landlords had changed the locks and removed their belongings without their permission. In review of the evidence and the testimony before me, and I do not find the landlords' submissions to be convincing or persuasive. I find that the landlords were in possession of the tenants' contact information, and despite this, the landlords did not confirm in writing that the tenants had given vacant possession back to the landlords. I find that the tenants had yet to return the keys back to the landlords, and although the tenants may no longer have been residing in the rental unit, and have moved the majority of their belongings out, the tenants still had possession of the rental unit. I find the tenants' explanation for why they had cut the utilities to be reasonable and plausible, and considering the possible ambiguity caused by the tenants' actions, I find that the obligation is still on the landlords to confirm with the tenants that they have given vacant possession back to the landlords before they had changed the locks and taken vacant possession of the rental unit. Accordingly, I allow the tenants' application for the return of a portion of their rent for the period of December 25, 2020 to December 31, 2020 in the amount of \$316.13 ( $\$1,400.00/31 \text{ days} \times 7 \text{ days}$ ).

I have also considered the monetary losses associated with the removal of the tenants' personal belongings. I am not satisfied that these losses were supported in evidence, and accordingly, I decline to make any further monetary orders.

I allow the tenants to recover the filing fee for this application.

### **Conclusion**

I issue a monetary order in the tenants' favour in the amount of \$416.13 in satisfaction of the monetary award for the landlords' failure to comply with section 31 of the *Act*, plus recovery of the filing fee.

The tenants are provided with a monetary order in the above terms and the landlord(s) must be served with this Order as soon as possible. Should the landlord(s) fail to

comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: June 2, 2021

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Residential Tenancy Branch