



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT, RPP, FFT

### Introduction

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

- an order requiring the landlord to return the tenant's personal property, pursuant to section 65;
- a monetary order of \$12,000.00 for compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord, the landlord's wife, and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord stated that his wife was present for this hearing, but she would not testify because she was not his agent or his witness. This hearing lasted approximately 55 minutes.

I informed both parties that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* and that parties could be subject to administrative penalties for contravening this *Rule*. At the end of this hearing, the landlord affirmed, under oath, that neither he, nor his wife, recorded this hearing. The tenant affirmed, under oath, that he did not record this hearing.

I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties affirmed that they were ready to proceed with this hearing, they did not want to settle this application, and they wanted me to make a decision. Neither party made any adjournment or accommodation requests.

The landlord confirmed receipt of the tenant's application for dispute resolution and notice of hearing and the tenant confirmed receipt of the landlord's evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and notice of hearing and the tenant was duly served with the landlord's evidence.

The tenant stated that he did not provide any documentary evidence in support of his application for this hearing.

At the outset of this hearing, the tenant confirmed that he was not seeking any monetary orders against the landlord and he did not want to pursue his claim for \$12,000.00. I informed him that this portion of his application was dismissed without leave to reapply. The tenant confirmed his understanding of same.

#### Issues to be Decided

Is the tenant entitled to an order requiring the landlord to return the tenant's personal property?

Is the tenant entitled to recover the filing fee for this application?

#### Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on May 20, 2018. Monthly rent in the amount of \$2,500.00 was payable on the first day of each month. No security or pet damage deposits were paid by the tenant to the landlord. A written tenancy agreement was signed by both parties.

The tenant testified regarding the following facts. He seeks an order requiring the landlord to return his personal property. He left a hot tub, surfboard, his daughter's bed, tools, and kitchen dishes and utensils at the rental unit. He moved most of his stuff out by January 31, 2021, but he left some belongings behind. He went away for two weeks and his friends were watching the rental unit, but the tenant's items were taken by the landlord on March 16, 2021. He called the landlord on March 18, 2021 and "50 times"

after that but the landlord did not respond. The tenant called the police about the landlord stealing his items, but the police told the tenant to file an RTB claim. The tenant had until March 28, 2021 to take his stuff out because he disputed the landlord's notices to end tenancy and a hearing was set at the RTB for April 1, 2021. The tenant tried to call into the hearing but had the wrong access code, so he was 11 minutes late for the hearing. He filed a review of the Arbitrator's decision from the April 1, 2021 hearing, but it was dismissed. The tenant is willing to pay the landlord for reasonable storage fees from a professional company, once he receives an invoice.

The landlord testified regarding the following facts. The tenant moved out on January 31, 2021. The tenant abandoned his items at the rental unit, as per the Arbitrator's April 1, 2021 decision from the previous RTB hearing. The landlord has all of the above items that the tenant said he left behind. The landlord put all the tenant's items in storage at the landlord's place and the landlord's friend's place. The landlord had to pay for utilities, disconnect the tenant's hot tub, have a crane lift it, and transport it to storage. From March 16 to May 15, 2021, the landlord incurred costs of \$3,533.25 plus an additional \$20.00 per day to August 24, 2021, for a total of \$4,733.00. The landlord is willing to return the tenant's items if the tenant pays for the landlord's storage costs. The landlord put an advertisement in the newspaper to sell the tenant's items, which he could have done 30 days ago, but that has not been done yet.

The tenant agreed to pay the landlord \$2,500.00 for storage fees but the landlord rejected this offer. The landlord said that he is entitled to the full amount of \$4,733.00 from the tenant.

### Analysis

The tenant seeks the return of his personal property that he left at the rental unit. The landlord agreed that he has the tenant's personal property in storage areas at the landlord's and the landlord's friend's places.

I order the landlord to provide access for the tenant to retrieve his personal property, including the tenant's hot tub, surfboard, the tenant's daughter's bed, tools, and kitchen dishes and utensils, by September 15, 2021.

The landlord has not filed an application at the RTB for the tenant to pay his storage fees. The landlord has not provided documentary proof of these storage fees for this hearing. Therefore, I cannot make a decision regarding same.

As the tenant was only partially successful in this application, I find that he is not entitled to recover the \$100.00 filing fee from the landlord.

Conclusion

I order the landlord to provide access for the tenant to retrieve his personal property, including the tenant's hot tub, surfboard, the tenant's daughter's bed, tools, and kitchen dishes and utensils, by September 15, 2021.

The tenant's application for a monetary order of \$12,000.00 and to recover the \$100.00 filing fee is dismissed without leave to reapply.

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: August 24, 2021

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Residential Tenancy Branch