



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## Decision

Dispute Codes      MNDC

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on October 28, 2021, by conference call. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for compensation for damage or loss under the Act.

The Landlord was represented at the hearing by two agents, S.B. and K.O. The Tenant was present at the hearing along with his legal counsel, D.K. All parties provided affirmed testimony. The Tenant stated he initially had help with this application from a different individual (advocate) named D.J. The Tenant had D.J. serve the Landlord with his Notice of Hearing and evidence by leaving a copy at the front desk of the Landlord's office location on May 12, 2021. D.J. was not present at the hearing, nor did he provide any corroborating proof of service to elaborate on what was included in this package. The Landlords stated they received the Notice of Hearing, but said the package contained no evidence, and they had no idea what the amount being sought was based upon. Other than stating he believed his advocate (the one helping him at that time) delivered all documents to the Landlord, the Tenant provided no proof of service or corroborating information to show what was served and included in the package.

I find the Tenant sufficiently served the Notice of Hearing. However, without further evidence corroborating service, I find the Tenant has failed to sufficiently demonstrate that he served his evidence in accordance with the Rules of Procedure and the Act. I find the Tenant's evidence is inadmissible as it has not been sufficiently served to the other party.

The Landlords did not provide any documentary evidence.

Both parties confirmed that they understood that the recording of hearings is prohibited. Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

1. Is the Tenant entitled to compensation for damage or loss under the Act?

### Background and Evidence

#### *General Background Information*

The Landlord explained that this building is a low-income housing complex, used to house vulnerable individuals. The Landlord explained that many individuals living in this building were living on and off the streets, and there were multiple safety concerns, particularly as the COVID pandemic worsened. The Landlord stated that the building was closed in early December 2020. Leading up to this date, the Landlord stated that they posted notices on a monthly basis to all units offering them assistance finding suitable alternatives, and reminding them that the building was going to be decommissioned and shut down sometime in the summer of 2020. The Landlord explained that all occupants were offered alternative housing, and many people were placed successfully, with some that were not. The Landlord stated that despite offering the Tenant many chances to move to a suitable alternative housing complex, the Tenant was flippant, dismissive, and would ignore their attempts to contact.

The Tenant denied receiving any of the notices or offers about alternative housing, and feels the Landlord unfairly and improperly ended his tenancy and threw his belongings out. The Tenant asserts that the Landlord should have issued him a formal Notice to End Tenancy, and they should have stored his belongings after the building was closed to allow him to collect what was his.

The Landlord acknowledged that the building was cleared out in early December 2020 by a contracted cleaning company, and states that by the time the building, in general, was cleared out, they were no longer managing the building and didn't have access. The Landlord stated that they repeatedly tried to talk to the Tenant and he would often storm off, yelling, rather than stay to discuss options available to him. The Landlord also stated that the Tenant had an issue with unpaid rent in October 2020, and the Landlord

posted a 10 Day Notice to End Tenancy for Unpaid Rent on October 2, 2020, at 10am. The Landlord stated that the Tenant never disputed the Notice nor did he repay his rent. The Tenant stated that if rent was an issue, the Landlord should have told him so, in person, when they gave him replacement keys to the building in November 2020, after the locks had to be changed for safety reasons.

The Landlord stated that they did raise these issues with the Tenant but he was not wanting to listen or acknowledge that he owed rent, and also that the building was closing down.

The Tenant stated that after COVID started in March 2020, he began having anxiety and an exacerbation of his autism due to having to live in this building, as the Landlord hired security guards to ensure social distancing was practiced. The Tenant stated that he moved to a nearby encampment in a park, and lived out of his tent from April 2020 onwards. The Tenant stated that he would only return once a month to spray his room with "Raid" because he believed he had bed bugs. The Tenant also asserts there was a mice infestation, although no evidence was provided in support of this.

The Tenant filed this claim because he wants compensation for the following items he asserts were left behind in his unit, which the Landlord "threw out", without giving him a chance to recover. The Tenant verbally listed off these items in the hearing:

<u>ITEM</u>	<u>ESTIMATED VALUE</u>
1 17" Laptop	\$1,200
2 1TB External HDD	\$100
3 Mountain Bike	\$800
4 Xbox, controllers, 14 games	\$400
5 Energizer battery charger/batteries	\$60
6 19" RCA LCD Tv	\$150
7 HP Digital Camera	\$150
8 30 DVDs/Blu-rays	\$600
9 Clothes in suitcases/laundry	\$3,000
10 Vacuum	\$50
11 Hotplate	\$60
12 Lamps	\$160
13 iPod docking station	\$150
14 Crockpot	\$40
15 Rice cooker	\$40
16 Kitchen utensils, including 3x chef knives	\$250
17 Medical cannabis paraphernalia including glass bong and vape pen	\$400
18 Harley Quinn 18-inch collectable figurine	\$250

19	Metal desk and chair	\$100
20	Plant pots, soil and accessories	\$100
21	Books and magazines	\$150
22	Beard trimmer	\$60
23	Phillips cordless razor	\$60
24	Backpack	\$200
25	Toiletries	\$200
26	Jade Buddha necklace	\$50
27	1889 American silver dollar (family heirloom)	\$50
28	2 propane torches	\$80
29	Queen size mattress foam	\$60
30	2 Ikea bags	\$10
31	Tarp	\$10
32	2 pair sunglasses	\$150
33	Betty Boop volleyer chain watch	\$50
34	wallet had my sin card in it plus other important documents	\$20
35	Gold Watch	\$250
36	Proctor-silex tea kettle	\$40
37	pellet gun and accessories	\$200
38	Adult novelty items	\$600
39	Live mouse trap	\$20
40	Electric mouse trap	\$60
41	Tools	\$50
<b>TOTAL</b>		<b>\$10,430</b>

The Tenant did not have any further evidence to corroborate what he asserts was lost, nor did he explain how he arrived at any of the above noted amounts, or how the values were established. The Landlord has no record that anything of value was left in the rental unit and questions that all of these items were actually in the rental unit.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Tenant to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Landlord. Once that has been established, the Tenant must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did everything possible to minimize the damage or losses that were incurred.

I have reviewed the totality of testimony on this matter, and considered what the Tenant is seeking in this application. I note the Tenant is seeking over \$10,000.00 for the 41 items he asserts the Landlord disposed of. However, the Tenant did not have any admissible documentary evidence to support what he asserts was lost or disposed of. I note the Landlord has no record of any items being disposed of after the building was shut down and questions the accuracy of this list.

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

I find there is an overall lack of evidence to demonstrate that these items were in fact left behind in the rental unit, or that they were disposed of by the Landlord. Other than listing off these items, verbally, the Tenant had no photos, or further evidence to corroborate his list. Further, he provided no explanation as to how he arrived at any of the "estimated" replacement costs. I find there is not only a lack of evidence that the Tenant possessed these items, but there is also a lack of evidence showing that they were actually in the rental unit at the end of the tenancy. Further, there is a lack of evidence demonstrating the value of the loss. I find the Tenant has not provided sufficient evidence to support his claim. I dismiss the Tenant's application for compensation for the items he asserts were disposed of.

### Conclusion

The Tenant's application is dismissed in full, without leave.

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, 2021

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Residential Tenancy Branch