



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**      RPP AAT FFT

### **Introduction**

This hearing dealt with the tenants' 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;
- an order to allow access to or from the rental unit or site for the tenants or the tenants' guests pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*;

While the tenant IR, and their agents JP and AB attended the hearing by way of conference call, the landlord did not. I waited until 9:51 a.m. to enable the landlord to participate in this scheduled hearing for 9:30 a.m. The tenant and their agents were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant, their agents, and I were the only ones who had called into this teleconference.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. All parties were also clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour. All parties confirmed that they understood.

The tenant testified that the landlord was personally served with their application and evidence package on May 28, 2022. In accordance with sections 88 and 89 of the Act, I find the landlord duly served with the tenants' application and evidence. The landlord did not submit any evidence for this application.

**Issues(s) to be Decided**

Are the tenants entitled to an order requiring the landlord to return the tenants' personal property?

Are the tenants entitled an order to allow access to or from the rental unit or site for the tenant or the tenants' guests?

Are the tenants entitled to recover the filing fee for this application from the landlord?

**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 month-to-month tenancy began approximately 1.5 years ago, with monthly rent set at \$1,100.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$550.00, which the landlord still holds.

The tenants testified that the tenant MR had suffered a heart attack, and was in the hospital for approximately 10 days. The tenant IR was away in rehabilitation. The tenants filed this application as MH returned to the rental unit after being discharged from the hospital on May 9, 2022, and discovered that the landlord had changed the locks and had thrown away all of the tenants' personal belongings.

The tenants had contacted the police, who confirmed that the tenants' belongings had been removed. The tenant IR is still in rehabilitation, and MR had to move in with their son.

**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.

By changing the locks, I find the landlord failed to comply with sections 31 of the *Act*. I accept the tenants' testimony that they had lost his personal belongings and had to find new housing. I find that the landlord had breached section 31 of the *Act*, which prohibits the landlord from changing the locks without providing a new set of keys to the tenants. I find that the landlord also breached section 44(1) of the *Act*, which states that proper notice must be given to the tenants in ending this tenancy unless both parties mutually agree to end this tenancy, or unless the tenants vacate or abandon the rental unit. I find that the tenants' belongings were removed by the landlord without his permission or an Order by an Arbitrator, and the tenants' belongings were never returned to them.

I order that the landlord return all of the tenants' personal belongings to them. If the landlord fails to comply with this order, the tenants are at liberty to apply for monetary compensation pursuant to section 67 of the *Act* for losses associated with the landlord's failure to comply with the *Act*. Liberty to apply is not an extension of any applicable timelines.

The tenants also filed an application to allow them access to the rental unit. As I find that the landlord has taken possession of the rental unit, I dismiss this portion of the tenants' application without leave to reapply.

As this application had merit, I allow the tenants to recover the filing fee for this application.

### **Conclusion**

I order that the landlord return to the tenants all of their personal belongings.

I also allow the tenants to recover the filing fee.

The tenants are provided with a monetary order in the amount of \$100.00, 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.

The remainder of the application 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: October 22, 2022

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Residential Tenancy Branch