



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Introduction

This hearing dealt with the tenant's 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;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence. No issues were raised with respect to the service of the application and evidence submissions on file.

### Issues

Should the landlord be ordered to return the tenant's personal property?

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

### Background and Evidence

The tenancy for this apartment unit began on October 1, 2018. On December 13, 2022 the tenants had to evacuate the rental unit following a major fire incident in the building. There was significant structural damage to the building and the tenant's unit was one of six units deemed unsafe to occupy. A restoration company was hired by the landlord to manage the project.

The tenant claims that after the fire, the restoration company prevented access to the unit due to asbestos contamination. The tenant states she was also required to hire her own abatement company to determine if any of her belongings could be safely decontaminated and salvaged. The tenant states this cost her a lot of money and that by the time her abatement company was able to gain access to the unit, she discovered that most of her belongings had been either stolen or vandalized. The tenant has not provided any detailed list of which items she is seeking to be returned by the landlord.

On behalf of the landlord, D.S. submits that they have done their best to work with the tenant to allow her to retrieve her belongings. The tenant provided them with a list of sentimental items, and they assisted her in retrieving 90% of those. The rest of the items were all contaminated with asbestos and could not be removed without proper abatement procedures. The tenant was notified she was responsible for hiring an abatement company for retrieving her personal belongings as these were not the responsibility of the landlord. The landlord submits that the tenant's husband broke into the unit multiple times, and he was the one responsible for damaging the remaining personal belongings. The landlord testified that any remaining belongings have been since disposed of by the restoration company.

The tenant denied the accusation that it was her husband that broke in.

### Analysis

Section 65(1)e of the Act provides the director may order the landlord to return to a tenant any personal property seized or received contrary to the Act.

The tenant failed to provide any detailed list of the items she is seeking to be returned. The tenant failed to provide evidence that the landlord has seized or received her personal property. Rather, it was the tenant's own evidence that she discovered all the belongings still remaining in the unit to be either stolen or vandalized. The landlord also confirmed that everything in the unit that had not been retrieved was either contaminated with asbestos or badly damaged and has since been disposed of.

I find the landlord is not in possession of any of the tenant's personal property. Accordingly, I can make no order for the landlord to return such. The tenant's application is dismissed without leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

This 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: July 05, 2023

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Residential Tenancy Branch