



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC OPB MND MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Both landlords and the tenant participated in the teleconference hearing.

At the outset of the hearing, the landlord confirmed that the tenant had moved out of the rental unit as of July 31, 2011, and on that basis I dismissed the portions of the landlord's application regarding an order of possession.

The landlord submitted late evidence which she also sent by registered mail to the rental unit on August 2, 2011. The tenant did not receive the evidence. The landlord was aware that the tenant no longer resided at the rental unit at the time she sent the registered mail, and I therefore found that the evidence was not served in accordance with the Act and was therefore inadmissible. The landlord then requested that the hearing proceed only in regard to her claim for August rent. I agreed to proceed with the landlord's claim for August rent only, and I dismissed the remainder of the landlord's application with leave to reapply.

### Issue(s) to be Decided

Is the landlord entitled to lost revenue for August 2011?

### Background and Evidence

The tenancy began on March 1, 2011, with monthly rent in the amount of \$700 due in advance on the first day of each month.

The evidence of the landlord regarding lost revenue for August 2011 was as follows. It had come to the landlord's attention that the tenant was not maintaining the rental unit in a sanitary condition, and on July 22, 2011 the landlord conducted an inspection of the rental unit. On July 23, 2011 the landlord called the tenant and left a voicemail message stating that she was going to have to change the locks if the tenant did not clean up. The landlord thought she could do so because of the "hazardous conditions" of the rental unit. The landlord did not in fact change the locks, and on July 26, 2011 the landlord let the tenant's social worker know that the locks had not been changed. The tenant's social worker informed the landlord verbally on July 26, 2011 that the tenant

was moving out by July 31, 2011. The landlord has claimed \$700 in lost revenue for August 2011, on the basis that the tenant failed to give proper notice.

The response of the tenant was as follows. When the tenants first moved into the rental unit, the landlord told them that they would not have to give one month's notice to end the tenancy. Prior to July 23, 2011 the tenant had completely cleaned the rental unit for real estate showings. The tenant was away from the rental unit on July 23, 2011 when the landlord left a voicemail message saying that she would be changing the locks. The tenant thought that she had been locked out, and on July 26, 2011 she asked her worker to call the landlord to unlock the rental unit. The landlord left three voicemail messages for the tenant's worker. In one of the messages, the landlord stated that if the tenant entered the rental unit and did further damage, the landlord would have the tenant charged with vandalism.

### Analysis

In considering the evidence, I find as follows. The landlord told the tenant that she was changing the locks, and she threatened to have the tenant charged criminally if she returned to the property. I accept the testimony of the tenant that she believed and relied on the landlord's statements, and as a result of that reliance she gave her notice and moved out of the rental unit. I find that the landlord effectively ended the tenancy, contrary to the Act, by leading the tenant to believe that she could not return or gain access to the rental property. I therefore find that the landlord is not entitled to lost revenue for August 2011.

As the landlord was not successful in their application, they are not entitled to recovery of the filing fee for the cost of their application.

### Conclusion

The landlord's claim for lost revenue for August 2011 is dismissed.

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 17, 2011.

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Residential Tenancy Branch