



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RPP

### Introduction

This application was brought by the tenants seeking an Order for return of personal property under section 65(1)(e) of the *Act*.

As a matter of note, the application erred in naming the landlord's employee in person as the respondent in this matter. With consent of the parties, I have amended the application to name the corporate landlord as the correct respondent.

### Issue(s) to be Decided

This application requires a decision on whether the tenants are entitled to an Order for return of personal property.

### Background and Evidence

This tenancy began on July 11, 2012 and ended on June 30, 2012 after the landlord, with three months notice, advised the tenants that the rental agreement would not be renewed when it expired on June 30, 2012.

At the commencement of the hearing, I noted that the tenants had submitted no evidence specifying which property had not been returned.

The landlord had submitted a substantial package of evidence, but the tenants stated that they had not received it. The landlord submitted a Canada Post tracking number showing that the evidence had been sent by registered mail on July 19, 2012 which, under section 90(a) of the *Act* is deemed to have been received five days later.

Rule of Procedure 3.5 provides that evidence must be submitted to the other party at least five days in advance of the hearing, and therefore, I cannot rely on the submission.

However, during the hearing, the parties gave evidence that the tenant had left the rental unit just after the landlord arrived to complete the move out condition inspection report as scheduled for 1 p.m. on June 30, 2012. The landlord changed the lock shortly after.

However, the landlord stated that she had a report from another tenant of activity in the rental unit on the evening of June 30, 2012, and the tenant, a former building manager, acknowledged that she had entered the rental unit that night and removed further property using a pass key that had not been returned to the landlord.

A staff member had photographed the contents of the rental unit on the afternoon of June 30, 2012 and again July 2, 2012.

The landlord stated that the remaining contents were of less than \$500 in value and, not having heard from the tenants until she received their Notice of Hearing, she disposed of them in accordance with *Regulation 25(2)* which allows disposal of abandoned goods valued at less than \$500.

The tenants stated that the value of the goods was more in the order of \$5,000 but they have no list or valuations of the property in question.

#### Analysis

In the absence of any concrete evidence from the tenants as to what goods were left behind, and given the tenants' unauthorized entry into the rental unit on the evening of June 30, 2012, I find that the tenants have failed to prove the landlord failed to return personal property valued at more than \$500.

Furthermore, having received no further notice from the tenants, I find it patently reasonable for the landlord to have concluded that the items left behind after the unauthorized entry were unwanted by the tenants.

By failure to participate in the move-out inspection, the tenants deprived themselves and the landlord of the opportunity to clarify their intentions for the property left behind.

Therefore, the application is dismissed without leave to reapply.

Conclusion

The application is dismissed without leave to reapply for lack of evidence.

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 27, 2012.

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Residential Tenancy Branch