# Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

## FINAL DECISION

Dispute Codes:

**MNDC, FF**

Introduction

This hearing was scheduled in response to the tenants Application for Dispute Resolution, in which the tenant requested compensation for damage or loss under the Act and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

An initial hearing was held on May 16, 2016. The hearing reconvened on September 6, 2016 and was completed on that date. This final decision should be read in conjunction with the interim decision issued on May 17, 2016.

Both parties were present at each hearing. At the start of the reconvened hearing I reminded the parties that they continued to provide affirmed testimony.

Issue(s) to be Decided

Is the tenant entitled to compensation in the sum of $6,579.15 as damage of loss under the Act?

Background and Evidence

The tenant has applied requesting compensation as follows:

| | |
|---|---|
| Return rent November 2014 | $1,150.00 |
| Storage October 20 – November 20, 2014 for not having shop | 151.20 |
| Moving expenses gas November 10 and November 23, 2014 | 200.00 |
| Hydro November 5 – 22, 2014 | 27.69 |
| Gas November 7 – 22, 2014 | 97.08 |
| Storage November 20 – December 20, 2014 | 253.20 |
| Breach of Contract – Quiet enjoyment | 2,600.00 |
| Conduct and Behaviour – Damages | 1,500.00 |
| Restricted access to property | 500.00 |
| TOTAL | $6,579.17 |

Multiple emails and text messages sent between the parties were submitted as evidence. The landlord supplied 110 pages of evidence, including photographs, plus a 20 page appendix. The tenant submitted one package that was 119 pages. For ease of identification both packages were sequentially numbered at the start of the hearing.

The landlord purchased the home in August 2014. The home was built in 1901 and has original wood floors. A copy of the purchase agreement was supplied as evidence.

The parties had initially communicated via a web site advertisement. On October 4, 2014 the landlord wrote that the shop on the property would rent separately for $275.00 and if the tenant wanted the home and shop, rent would be $1,350.00. The landlord explains that the shop is not heated but has a wood stove that is not likely to be approved by an insurance company.

The tenant viewed the property on October 4, 2014; saw the work that was to be completed by the tenancy start date and agreed to rent the home for $1,300.00, including the shop. On October 6, 2014 the tenant received a separate addendum from the landlord.

A one year fixed-term tenancy commenced on November 1, 2014; the agreement was signed on October 7, 2014. A copy of the tenancy agreement and addendum was supplied as evidence. The tenant paid a pet and security deposit in the sum of $650.00 each; the deposits have been returned to the tenant.

The tenant and landlord walked through the home on November 1, 2014 and the tenant was given the keys to the house. On November 6, 2014 the tenant was given the keys to the shop and on November 15, 2016 the tenant was provided with a key to the crawl space. The use of the crawl space was in dispute.

The parties each testified that when they agreed to that prior to the tenancy a number of items required attention. The landlord told the tenant that repairs would be made by November 1, 2014, including:

- Entrance update;
- Wood paneling paint;
- Cabinet paint and new hardware;
- Trim;
- Insulation;
- New windows, door and a new fixture outlet;
- Wood floors sanded and coated; and
- That the garage was “as-is” without heat.

The parties met on October 24, 2014 at which point the landlord told the tenant the shop roof was leaking and would need to be repaired. The landlord told the tenant it would take at least 20 days to repair the roof. There was no dispute that the parties then agreed to a rent reduction for November 2014 in the sum of $150.00 to cover storage costs for the tenant’s items she could not place in the shop. The tenant said she had no other choice but to accept the compensation for the loss of use of the shop. The landlord said that the rent reduction recognized the need for storage, so the tenant has been reimbursed for that cost.

On October 24, 2014 the landlord told the tenant that there was a delay in some of the contractor work and that the insulation would be installed on November 2, 2014 and the windows would be installed on November 4, 2014. The landlord believed there was no issue as the tenant said she would not be fully moved into the unit. The tenant did not indicate this work

would pose any problem. There was evidence of text reminders to the tenant of the installations as they were to be completed and when they had been completed.

The tenants' time line of events indicated that it was on October 23, 2014 that she became aware of the need to insulate the home. The tenant asked if the rental could be delayed to November 15, 2014 or to the 7th or 8th of November, 2014. The landlord stated that he believed the home was ready for occupation; that the only outstanding issues were the insulation and windows, which would be completed by the date the tenant said she would move into the unit. The landlord said the unit would be habitable effective November 1, 2016.

On October 26, 2014 the landlord sent a text to let the tenant to let her know a house cleaner would be in the home on October 1, 2014. On November 2, the insulation would be installed and on November 4, 2014 the new windows would be installed. On October 31, 2014 the landlord sent a text saying the home was clean and ready for the tenant to move big items in. On November 1, 2014 the parties met, walked through the unit and rent was paid. The tenant writes that she was not happy with the home but "there was no turning back." The tenant requested paint so she could complete some repair.

The landlord testified that after the insulation and windows were installed he hired a professional cleaner. A copy of the November 4, 2014 invoice for cleaning services was provided as evidence.

During the hearing the tenant said that they moved in on November 8, 2014; the tenants' written submission indicates that the first day in the house was November 9, 2014.

The tenant made repeated requests for a key to the crawl space under the house. On November 8, 2014 the landlord explained that there was a dirt floor in this space that was approximately 30 inches in height. Pictures supplied by the landlord showed debris in the crawl space, plastic on the ground and service installation. The landlord said the gas, furnace and electrical services ran throughout the crawl space, but he would leave a key within the week. The tenant believed she was promised use of the crawl space. The tenant also wanted access should an emergency arise.

The tenant submits that when she moved into the unit there was no oven, counter trim was missing alongside the stove, the home was not clean and painting was required. The tenant pointed to photographs supplied as evidence showing damage to the walls, fresh nail holes, gouge marks in the flooring and patched sections of floor. The tub required caulking and was scratched, the finish was coming off the tub and there were dead flies in the light fixture and mildew in the caulking. Some paint used was semi-gloss and some flat finish. The exterior siding of the home had some damage and there was some graffiti on the side of the shop. Nails were found in the driveway and an outside light fixture had what the tenant presented as patched with insulating foam.

The landlord submitted 35 photographs of the interior of the home taken immediately prior to the walk-through completed on November 1, 2014. The photos are date-stamped. The photos show a unit that appears to be a character home with original floors. The landlord supplied 11 photographs taken prior to the renovation work that was completed. Prior to the November 1, 2014 it appears the unit was clearly dated, with wood paneled walls, old carpeting and doors, unpainted cabinets and a bathroom that was in poor condition. The photos taken after the renovations showed a unit that appeared neat and clean.

The tenant wrote that on November 10, 2014 she reported that the oven was malfunctioning and three of five burners on the stove worked. This was the first time the tenant attempted to cook in the home. The tenant submits the home was not clean. The rooms needed touch-up paint and there were nail holes that required repair. The walls were thinly painted. The floors were not refinished or sanded. Pieces had been cut to patch the kitchen floor, so it looked horrible. The shower curtain was mounted too high.

On November 11, 2014 the parties met at the rental unit. The landlord suggested they complete an inspection of the unit. The tenant responded that an inspection would be time consuming and there was no point as there was so much damage. The tenant said she would have to write 20 pages of notes. The landlord said during the hearing he would have accepted a written list, but the tenant did not produce one. The landlord created notes on that date, setting out items of concern to the tenant. The note was supplied as evidence, setting out the need to move a light switch, repair the oven and stove, and provide a crawl space key and a tray for washing machine.

On November 11, 2014 the landlord replaced the stove. The landlord said he understood a malfunctioning stove would be an inconvenience. A copy of the invoice was supplied as evidence.

In response to the tenants' concerns, on November 12, 2014 the landlord had an electrician move a light switch that was behind a door. The tenant then wrote that it was the fan in the bathroom she wanted addressed, not the light switch.

On November 13, 2014 the tenant wrote the landlord asking that communication be made in writing. On November 16, 2014 the tenant wrote the landlord stating that she was receiving a new letter every day and that she could not keep up with the writing. The tenant explained she had moved one-half of her belongings into the home and that she had many items in storage at another location. The tenant wrote that she had stayed in the unit for five nights with continual interruptions. She planned on vacating the shop on that date, and asked for another meeting with the landlord. The tenant wrote that there were many violations of the contract and she would address them in writing.

The landlord responded on November 13, 2014 that he was attempting to ultimately have the tenant happy and comfortable in the home. He was willing to renegotiate the terms of the lease and would meet to discuss this and resolve any issues. The landlord asked the tenant to call him. A November 13, 2014 note from the landlord set out issues the landlord felt they had resolved on November 11. The landlord wrote that he thought they had resolved everything prior to November 1, 2014. The landlord set out the following:

- Stove with intermittent burners that was reported as malfunctioning on November 11 would be replaced (installed that date);
- The light switch was repaired on November 12;
- A plumber will attend November 13, 2014 to address concerns regarding a sink screen and a clean out under the kitchen sink;
- A detergent tray for the washing machine had been ordered but is fully operational without that part;

- The landlord was willing to provide emergency access only to the crawl space as the item was not addressed in the addendum. The tenant is told that space is not for storage and is confined space;
- The tenant had indicated on November 11, that the home required cleaning. The landlord offered professional cleaning service if the tenant would create a list of deficiencies; but the tenant did not. The tenant was given 24 hours to submit a list for cleaning;
- The landlord requested a formal inspection on November 14, 2014 as a follow-up to the verbal inspection held on November 1, 2014; the tenant had declined the offer to complete an inspection on November 11, 2014;
- Full shop access would be available on November 20, 2014. The rent had been reduced by $150.00 representing the storage fees paid by the tenant. Any items placed in the shop up to November 20, 2014 would be at the tenants' risk. The landlord also wanted to retain an exterior space for his use; and
- The landlord agreed to written communication.

On November 13, 2014 the tenant replied, indicating they thought the home was going to be professionally renovated and that this was not the case. The tenant explained she did not request a sink trap; the tenant had only been concerned that the plumbing was not properly installed. The tenant writes that she told the landlord she wanted access to all areas of the home including the crawl space. The tenant said that the landlord was required to terminate the storage with a commensurate rent reduction. The tenant confirmed that she did not accept the offer of cleaning.
The tenant wrote the landlord two separate notes on November 13, 2014. The tenant explained she had found the door to the storage open on November 12, 2014. A compressor was running and no one was at the property. After 30 minutes the tenant text the landlord to say she would lock the storage as her paddle board was in plain view. The November 13, 2014 note explained that the landlord had changed his mind about the tenants' ability to use the crawl space and what the tenant could place in the space. The tenant wrote that she was making arrangements to have her property removed from the storage and that the landlord was violating the tenancy agreement. The tenant said the landlord was denying her access to a space that was her right to use. The tenant said she was not refusing an inspection but she had the contents of her home and shop in the house and had little space to allow an inspection. The tenant confirmed that she appreciated the offer for cleaning but declined the offer. The tenant wrote that the landlord was impacting her right to quiet enjoyment and provided the landlord with the corresponding section of the Residential Tenancy Act. The tenant explained that she had not had a moment of quiet and they now had the contents of the shop in the living room.

The landlord wrote the tenant on November 15, 2014 to explain that the tenant had been giving contradictory messages and that the tenant seemed to think the landlord was attacking her when he just trying to record the concerns set out by the tenant. The landlord explained he had hired a plumber and that he had not previously agreed the tenant could use the crawl space and that it was not clarified on the tenancy agreement. The landlord had called the RTB for advice on multiple occasions for advice and was told the crawl space was a "grey area".

A key to the crawl space was left in the shop on November 15, 2014, in case emergency access was required. The landlord pointed to a November 9, 2014 text where the tenant said it would be best if they took a few days before they talked; then on November 13, 2014 the tenant wrote that she had tried to work further with the landlord. The landlord states he had asked for a

meeting on November 11, 2014. On three occasions the landlord asked the tenant to create a deficiency list for cleaning; the tenant had refused to do so. The landlord said he did not know what the tenant would like him to do to resolve this. The landlord suggested amendments to the tenancy agreement would allow them to provide clarity on terms of concern to the tenant. The landlord explained the tenant knew the shop required a new roof and was compensated for the storage space. The landlord did work late into the evening on November 4, 2014 installing new exterior doors.

The landlord went on to review the work that had been completed in the home; three hours on November 4, 2014 for insulation; new windows on November 4, 2014 (7 hours) and electrical work on November 12, 2014. The landlord reminded the tenant she had keys on November 1, 2014 but chose not to move into the home on the first day. The landlord wrote that he was trying to create solutions within a reasonable time-frame but he was getting the impression the tenant thought he was impossible to deal with. The landlord asked that any correspondence be left at his door as posted letters could be delayed.
The tenant claimed return of November 2014 rent paid as she was still renting her previous unit and needed accommodation from November 1, to 8, 2014. From November 22 to 30, 2014 the tenant also had to pay for accommodation and utilities at her previous rental unit. The tenant had given notice to vacate her previous rental effective November 15, 2014. The landlord had not agreed to a delayed move-in date, but the tenant believes a delay should have been granted. The tenant said the repairs were not professionally completed, resulting in tenancy issues.

The tenant has claimed the cost of storage. A receipt in the sum of $151.20 for storage dated October 20, 2014 and a November 20, 2014 receipt in the sum of $253.20 were supplied as evidence. The tenant had to store items before she moved in as the shop was not ready and then had to store items at the end of the tenancy. The tenant said she was displaced so had to incur the storage costs. In addition to the storage costs the tenant also claimed compensation for loss of use of the property.

The tenant claimed moving costs when she vacated the rental unit; a company was hired but no receipts or invoice was supplied.

The tenant has claimed the cost of utilities incurred for the rental unit. A hydro bill in the sum of $27.69 and gas bill in the sum of $97.06 were supplied as evidence of costs at the rental unit. The tenant had to pay hydro at her previous rental unit and had hook-up fees to pay elsewhere.

The tenant stated that the portion of her claim for breach of contract is strictly for damages. The tenant had turned down other housing when she accepted the rental unit. The unit was to be ready for occupation and the landlord did not fulfill his responsibilities. The tenant wrote that the rental unit was not ready to rent November 1, 2014, that occupancy was restricted and that the unit was not renovated or provided in the condition agreed.

In relation to the portion of the claim for “conduct and behaviour” the tenant alleges she suffered stress and humiliation. On November 19, 2014 the tenant wrote that there was too much contact with the landlord, who was disrespectful and ignored the tenants’ concerns. The letters sent by the landlord made the tenant feel bullied. The tenant said the disturbances were the result of the landlords’ presence on the property and the text messages, emails, phone calls and letters taped to the door. The landlord had come to the property twice on November 14 and 18, 2014 without notice. The tenant’s access to the property had been limited as the home and

shop was not ready on November 1, 2014 and access to the crawl space was denied. The tenant alleged daily attendance at the property violated the tenant's privacy and that the landlord had been unprofessional and intimidating.

The tenant alleged several instances of disrespect by the landlord. The tenant described text messages sent by the landlord as malicious. Examples of texts sent by the landlord included:

> *"I understand what you're saying about the fan. Ironically I will run the fan much less than normal knowing three lights will be on at the same time...;"* and
>
> *I want you to know I'm not trying to be difficult I am just being honest. I also look after rental units and have a great deal of experience with tenants and I'm trying to look out for your best interest in the future as well. Just tell me a time tomorrow and I can be there thank-you."*
>
> (Reproduced as written)

The tenant submits the landlord told her she could shower in the dark for all he cared and that he asked if the tenant was going to look at him when he was talking to her. The landlord said the tenant had not apologized to him once and that he would like her to look at him when he talked. The tenant said the landlord yelled at her.

The tenant stated that on November 20, 2014 the parties mutually agreed to end the tenancy effective November 23, 2014. The tenant states that she resided in the home for 13 days during the tenancy. A copy of a mutual agreement to end a tenancy form that is signed by the landlord and tenant; ending the tenancy on November 23, 2014 was supplied as evidence.

There was no dispute that a move-out condition inspection report was completed on November 20, 2014.

The tenant returned the keys to the shop and attempted to have the landlord sign a note agreeing that the tenant never had full use of the shop. The landlord did not sign agreeing.

During the hearing the landlord said he respected the tenant and had wanted to resolve issues. In October 2014 the landlord discovered the shop roof was leaking and required repair. The landlord believed adequate notice had been given regarding the repairs, compensation for the loss of use and notice of the window and insulation installation.

On November 6, 2014 the shop roof was repaired on one side; the tenant was given a key and allowed to place some items on that side of the shop. The landlord explained he could not be liable for belongings during the time of further repair and that it would be completed by November 20, 2014. The landlord provided aerial photographs of the property which show the shop has a separate driveway and is well removed from the side of the house.

The landlord did not want items stored in the crawl space; it as a confined space with a dirt floor and the services to the home were located there. Use of the crawl space was not referenced on the lease so the landlord preferred to amend the tenancy agreement to bring some clarity. The tenant did not wish to do so.

The landlord said that when he and his wife met with the tenant on November 11, 2014 the tenant was hostile; she yelled and was upset about the stove. The landlord said he understood

the loss of use of the stove was a problem and it was replaced on that date. The landlord apologized and thought he had addressed any issues. The landlord had offered cleaning services, but the tenant declined. The landlord pointed out that the tenant's written submission did not include text messages sent by the landlord where he was attempting to solve issues. The tenant acknowledged this omission.

The landlord provided phone records showing his repeated calls to the Residential Tenancy Branch for advice on how to respond to the tenants' concerns. The landlord wanted to resolve the conflict. The landlord said he had the light switch moved by the electrician only to be told that the tenant wanted the bathroom fan altered. The landlord felt this was a contradiction. The landlord responded to the tenant's letters and did not know what else he could do; he was eager to resolve matters.

In relation to the allegation of inappropriate comments made, the landlord agrees he said "is your name Angela, sorry I missed your text." The tenant was agitated as the shop had been left open with her paddle board visible. The landlord was also upset as he had tools valued at least $1,500.00 in the shop, left vulnerable by the roof repairperson. Nothing was stolen.

The landlord referenced the tenant's seven and one-half page letter dated November 19, 2014. They had been discussing changing the terms of the tenancy to be more advantageous to the tenant and now the tenant had made numerous allegations and asked to end the tenancy. The landlord thought that after all the effort to address the tenants' concerns the request to end the tenancy was shocking. The parties then signed a mutual agreement to end the tenancy.

The landlord pointed to a letter in the tenants' written submission, dated November 19, 2014. In that letter the tenant says she wants to resolve the situation. The tenant writes they have not unpacked, do not sleep, eat and are uncomfortable and do not feel safe. The tenant offered some possible solutions such as moving to a month-to-month term so proper notice can be given, cancel the fixed-term, and allow a sub-let or arbitration. The landlord first saw this letter when he received the tenants' evidence package in April 2016. The landlord said the tenant was able to achieve what she wanted and the tenancy was mutually ended. The landlord found this letter confusing. The tenant did not respond to this submission.

The landlord did not respond to the tenant's December 2014 letter requesting compensation as they had mutually agreed to end the tenancy. The landlord had done his best and all complaints were dealt with quickly. The landlord felt obligated to respond and wanted the tenant to be happy. The tenant was compensated by the November 2014 rent reduction and the landlord never went in the home without permission. The landlord made three offers to alter the tenancy agreement and to deal with issues if a written list would be given by the tenant. The tenant was never satisfied.

The landlord stated that the experience was stressful and that the tenant should not be entitled to compensation.

Analysis

I have carefully considered the relevant evidence, testimony and reached a decision, on the balance of probabilities; taking into account the legislation and policy.

In relation to repairs I have considered section 32 of the Act, which provides, in part:

> ***Landlord and tenant obligations to repair and maintain***
>
> ***32*** *(1) A landlord must provide and maintain residential property in a state of decoration and repair that*
>
> *(a) complies with the health, safety and housing standards required by law, and*
>
> *(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant…*

Residential Tenancy Branch policy suggests that damage or loss is not limited to physical property only, but also includes less tangible impacts such as:

- loss of access to any part of the residential property provided under a tenancy agreement;
- loss of a service or facility provided under a tenancy agreement;
- loss of quiet enjoyment;
- loss of rental income that was to be received under a tenancy agreement and costs associated; and
- damage to a person, including both physical and mental.

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- the loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

I will first deal with the claim for storage. There is agreement that the landlord initially wished to rent the shop, separate from the house. The parties agreed to rent for both the house and shop in the sum of $1,300.00. I find that when the landlord discovered the leak in the shop roof he took appropriate action to repair the roof, as required by section 32 of the Act. While the repairs appear to have been extended over a period to November 20, 2014 the tenant had agreed to compensation for the loss of storage and rent was reduced. I find that the tenant is now requesting further compensation beyond that she had agreed to by accepting a rent reduction. Therefore, as the tenant has previously been compensated for storage at the start of the tenancy, by mutual agreement, I find that the claim for storage from October 20 to November 20, 2014 is dismissed. The tenant did have a choice to decline the offer of compensation at the time yet she chose not to. I have rejected the tenants' submission that she had no choice as she could have requested additional compensation; yet the tenant went on to reach what appears to have been a reasonable agreement with the landlord. There is no evidence the

landlord breached the Act; the landlord was simply making a repair that he had not known previously was required.

I can find no basis for the claim that the tenant was restricted from using the property effective November 1, 2014. The tenant had the keys and was free to move into the home. The fact that windows and insulation needed to be installed should not have barred the tenant from moving into the unit. These are repairs that could occur at any time during a tenancy. There was no evidence before me that the landlord was negligent in the timing of the installations; only that the contractors were not available at the time the landlord had expected them to be. The alternative would be for the landlord to leave the home with old windows and no upgraded insulation; clearly to the detriment of the tenant.

In relation to the claim for November 2014 rent, I find that the rental unit was fit for occupation on November 1, 2014. The only repairs that remained in the home were the windows and insulation, which could easily have been accommodated by the tenant if she had chosen to move into the home on November 1, 2014. I find that the remaining deficiencies pointed out by the tenant were sufficiently addressed by the landlord and minor in nature. A small piece of missing trim, flies in a light fixture, a mix of paint finishes and the need for some cleaning does not support the claim for return of rent. These are all issues the landlord offered to rectify in a timely manner. From the evidence before me I find that the landlord attempted to respond to the concerns of the tenant; he had an electrician enter the home, had the plumbing checked and immediately replaced the stove. The tenant declined the offer for cleaning services; what I find was an attempt by the landlord to accommodate the tenant.

The renovation to this character home that is over 100 years old was not to the standard expected by the tenant. The legislation recognizes that the age and character of a home must be taken into account when considering a claim and from the evidence before I find the state of the home was in keeping with its' age and character. There was no evidence before me that the home was unsafe or that any hazards existed.

In relation to the use of the crawl space, I find that this space would not be reasonably accepted as suitable for storage. The use had not been set out in the tenancy agreement addendum; as a result I find that there was no meeting of the minds in relation to use of that space. The crawl space was a closed space, with a dirt and plastic floor where services were installed. The tenant was given a key and no emergency occurred that caused any loss to the tenant. I find no breach of the Act by the landlord and in fact the landlord did supply a key even though he believed the space was not suitable for use.

The flooring was original to the home and certainly appears to be of an age and character that would be expected in a home built in 1901. The floor may not have been refinished to the standard expected by the tenant but from the evidence before me I can see no reason to find that the flooring was not to the standard expected for a home of this age. Some patching of flooring would not be unanticipated.

There were repairs made to the window, insulation installation and an electrician at the home. The electrician entered to make a repair the landlord believed the tenant had requested and afterward the tenant said she had asked for a different repair. From the evidence before me I find that the landlord was acting in good faith in his attempts to respond to the tenant concerns set out in writing. The landlord was only responding in writing as the tenant had asked that he do so. The landlord cannot then be faulted for placing communication in writing; rather than having a conversation. There is no doubt the tenant was frustrated and upset but the absence of

a breach of contract fails to support the claim for compensation. I do not find that the repeated letters formed any disturbance to the tenant; the landlord was required to respond.

Harassment is defined in the *Dictionary of Canadian Law* as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome." In relation to the behaviour of the landlord, I find that there is no evidence to support a loss of quiet enjoyment by the tenant. There was no evidence before me of any campaign by the landlord to harass or otherwise upset the tenant. The landlord acknowledged several comments that were not appropriate and made in frustration, but I find that these do not meet the threshold that would support compensation. I found the landlord's written communication with the tenant respectful and non-threatening in tone. If the landlord became frustrated with the tenant there is no evidence that the landlord engaged in a course of behaviour meant to intimidate or threaten. Therefore, I find that the tenant has failed to meet the burden of proving a loss due to the conduct and behaviour of the landlord.

The parties reached a mutual agreement to end the tenancy. As each party had their own reasons for ending the tenancy I cannot attribute a loss to one of the parties and not the other. When the tenant signed the mutual agreement to end the tenancy I find that any costs incurred such as additional storage, rent paid elsewhere, utilities and moving must be borne by the tenant. There was no basis for a claim for moving on November 10 and 20, 2016 and additional storage. The tenant had originally agreed to store items elsewhere, with compensation and then agreed to vacate the unit.

Therefore, in the absence of a breach of the Act by the landlord I find that the tenant's application is dismissed.

Conclusion

The application is dismissed.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 20, 2016

Residential Tenancy Branch