



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: RPP

Introduction

This application was brought by the tenant seeking an Order for return of her personal possessions after the landlord refused to release them to her pending payment of outstanding rent following the end of the tenancy.

Despite being served with the Notice of Hearing sent by registered mail on September 18, 2008, the landlord did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This application requires a decision on whether the tenant's belongings were abandoned or seized for unpaid rent.

Background and Evidence

This tenancy began March 1, 2008. Rent was \$855 per month and the landlord holds a security deposit of \$425 paid on April 29, 2008.

The tenant moved out on August 13, 2008 after having been served with a Notice to End Tenancy for unpaid rent on August 2, 2008.

During the hearing, the tenant gave evidence that she did not have the funds to secure a truck on the day she moved out but that she advised the landlord that she would return within a very few days to clear her belongings out of the rental unit.

When she returned on August 19, 2008 prepared to retrieve her property, the landlord refused her access to it until he received the unpaid rent.

Analysis

A landlord's obligations with respect to abandoned goods are set out at section 24 of the *Regulations* pursuant to the *Act*. I find that while the landlord may have had grounds to apply for an Order of Possession when the tenant left, he did not have possession of the rental unit at the time. In the absence of the notice from the tenant that she would not be returning, the landlord was not in a legal position to consider her goods as abandoned. Otherwise, the landlord has no right to distrain a residential tenant's goods.

Conclusion

Therefore, I find that the landlord must release the goods in question without delay to the tenant and an Order to that effect accompanies the tenant's copy of this decision for service on the landlord.

Dated: October 17, 2008