



Dispute Resolution Services

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

Decision

Dispute Codes: MNDC MNR MNSD

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for a monetary order for \$25,000.00

Background and Evidence

The tenant testified that he and the landlord had come to an agreement at a previous hearing to have the tenants belongings returned to him; however the tenant claims that the landlord has not cooperated and as a result his belongings were not recovered and,

based on emails received from the landlord, it is his belief that they were subsequently disposed of by the landlord.

The tenant is therefore asking for an order for \$25,000.00 to cover the cost of replacing his belongings which he estimates to have an actual replacement cost in excess of \$45,000.00, and for personal loss and suffering which he believes resulted from the willful or negligent actions of the landlord.

The landlord testified that she has attempted to meet with the tenant to return his belongings; however it is the tenant who has not cooperated and as a result she has not been able to return the tenants belongings to him.

The landlord further testified that she has not disposed of the tenants belongings, except for those items that could not be reasonably salvaged, and is still willing to return them to the tenant if he pays for the moving and storage costs of his belongings.

Analysis

Due to the contradictory evidence given by the parties it is difficult to assign blame in this case and I therefore will not do so; however it is my decision that since the parties do not seem to be able to resolve this issue without an order for them to do so, I will issue an order for the return of the applicants belongings.

I will not order that the tenant pay for any moving or storage costs as this is the tenants application; however if the landlord feels she has such a claim she can file her own application for dispute resolution.

I will not issue any monetary order against the landlord either, because given the unusual circumstances surrounding the tenant's disappearance and subsequent re-

appearance, I find that the landlord did not act unreasonably when she removed the tenant's belongings and secured the rental unit to prevent further damage by the seemingly abandoned cats. In fact the landlord's actions may have prevented further damage to both the tenants and the landlord's property and thereby mitigated the loss to both parties.

Further since the tenant has not yet recovered his personal belongings he does not know the whether or not there has been any loss or damage to his personal property. If after recovering his items from the landlord, the tenant still believes he has a claim against the landlord with regard to his personal belongings, he is at liberty to file such a claim.

Conclusion

I have issued an order for the landlord to return the applicants personal belongings.

I dismiss all monetary claims except the claim for damage or loss to the tenant's personal belongings, which I dismiss with leave to re-apply.

Dated: January 23, 2009