



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, RPP

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for the return of their security deposit and the return of their personal belongings.

Having heard the testimony of the applicant and in the absence of any submissions from the respondent, although having been notified of the right to make such submissions (the Notice of Hearing and the Arbitration papers were served on the respondent by registered mail that was mailed on May 13, 2009 and therefore is deemed served 5 days later even if the respondent refuses to accept it.) I have determined:

Issues(s) to be Decided

- Is the tenant entitled to recover her security deposit?
- Is the tenant entitled to the return of her personal belongs?

Background and Evidence

This tenancy started on September 15, 2007 and ended on March 28, 2009. This is a two bedroom rental unit. The tenant paid a security deposit of \$425.00 on October 01, 2007. The tenant testifies that she returned to the rental unit on March 30, 2009 to do the final clean and spoke to the landlords sister who told her that she could take her time moving the rest of her belongings out of the unit. The tenant went back to the unit

three days later on April 02 to collect the rest of her belongings as listed below and to carry out a move out condition inspection. The tenant testifies that she knocked on the landlords' door but he would not answer. She tried to contact the landlord many times over a two week period to arrange a move out condition inspection, to return the keys to the rental unit and to pick up the rest of her belongings. When she eventually managed to contact the landlord she was informed that her belongings had been disposed of and he refused to return her security deposit. The tenant claims that the items left in the unit are as follows:

Brass and glass vanity table with chair

Metal office desk

Tops of two brass lamps

End table

Box with three controllers for TV, Stereo, DVD

Income tax papers

Pink Office chair

Two bikes

The tenant testifies that she has not yet given the landlord her forwarding address in writing as she has been unable to contact him. The tenant testifies that the landlord told her that she had broken a window frame and a switch on the stove. The landlord also told the tenant that she had caused grooves in the linoleum floor. The landlord told her that he had the carpets cleaned at a cost of \$190.00.

Analysis

In the absence of any evidence from the landlord I find that he has not completed a move in or move out condition inspection report pursuant to s. 23 and 35 of the act. The consequences of not complying with the *Act*, in relation to the move in and move

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out condition inspection reports, means that the landlord is unable to retain any of the tenants' security deposit pursuant to s.38(5) of the *Act*. However, the tenant has not given the landlord her forwarding address in writing. The landlord has 15 days after receiving the tenants' forwarding address to return the security deposit.

I find that the tenant has complied with the *Residential Tenancy Act* in relation to moving from the rental unit. The tenant returned before the end of the month to clean the unit and was told she could take her time to collect her personal belongings. The residential tenancy regulations s. 25 states that a landlord must store the tenants' belongings in a safe place and manner for a period of not less than 60 days following the date of removal. The landlord must keep a written inventory of the property. The landlord can only dispose of the property if it has a market value of less than \$500.00, the cost of storage would be more than its value or it would be unsanitary to store. I find that even if the tenants' belongings were worth under \$500.00 the landlord has acted prematurely in the disposal of the tenants' property. The tenant returned three days after moving out to collect her belongings as agreed with the landlords' sister. She then tried for two weeks to contact the landlord to collect her property and the landlord did not return her calls. Therefore, I Order the landlord to return this property to the tenant by June 30, 2009. If the landlord has disposed of this property in a manner which prevents him returning it to the tenant then the tenant is at liberty to file another application for Dispute Resolution.

Conclusion

I do hereby Order pursuant to section 26 of the *Residential Tenancy Regulations* the landlord to return the tenants personal property by **June 30, 2009**.



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I do hereby Order pursuant to section 38 of the *Residential Tenancy Act* the landlord to return the tenants security deposit and any accrued interest within 15 days of receiving her forwarding address.

No additional Orders will be issued in relation to this matter at this time. The tenant is not required to serve a copy of these Orders on the landlord.

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: June 17, 2009.

Dispute Resolution Officer