



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes O, RPP, MNDC

Introduction

This matter dealt with an application by the Tenant for an Order requiring the Landlord to return his personal property or in the alternative, for a monetary order compensating the Tenant for the loss of that personal property.

The Tenant said he served the Landlord with a copy of the Application and Notice of Hearing by registered mail on November 4, 2009. According to the Canada Post online tracking system, a notification card was left for the Landlord on November 5, 2009, however, she did not pick up the hearing package. I find that the Landlord was served as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is an order required in order for the Tenant to recover his personal property?
2. Is the Tenant entitled to compensation for the loss of his personal property?

Background and Evidence

This tenancy started on March 1, 2008 and ended on February 28, 2009. Rent was \$650.00 per month plus 1/3 of the utilities for the rental property.

The Tenant said he owed the Landlord \$965.00 for unpaid rent and utilities for August 2008. Consequently, the Tenant gave the Landlord's agent written authorization to sell his boat and truck if he did not pay this amount by September 5, 2008. The Tenant said he paid the Landlord \$650.00 on or about August 25, 2008 and made a verbal agreement with the Landlord's agent that she could keep his security deposit of \$350.00 in payment of the balance owed.

The Tenant said that although the Landlord received payment for the amount owed to her, she later refused to give the Tenant his boat and truck as she claimed the Tenant owed her amounts for cleaning and repairing the rental unit at the end of the tenancy.



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Analysis

In the absence of any evidence from the Landlord to the contrary, I find that the Landlord has detained the Tenant's personal property without his authorization and without legal authority.

Consequently, I ORDER the Landlord pursuant to s. 65(1) and s. 62(3) of the Act to return the Tenant's 1964 Mercury pick up truck and 16' Hurston Glass Craft boat to him no later than December 15, 2009. If the Landlord fails to do so, the Tenant may reapply for a monetary order for compensation for the loss of those possessions (estimated at \$3,800.00) upon providing sufficient evidence of their value.

Conclusion

The Tenant's application for an Order that the Landlord return his personal property is granted. The Tenant's application for a monetary order for compensation is dismissed with leave to reapply.

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: November 26, 2009.

Dispute Resolution Officer