



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC

Introduction

Having heard the evidence of the parties and witnesses, under affirmation, and having given the parties the opportunity to give their evidence orally and to provide written and documentary evidence, and to cross-examine the other party and witnesses, and to make submissions to me, I have determined:

Issues(s) to be Decided

This is a request for a monetary order for \$7,450.00

Background and Evidence

The applicant testified that:

- The landlord gave her an improper Notice to End Tenancy and then locked her out of the rental unit on September 12, 2009.
- A number of her belongings were left outside to be picked up on another trip and the landlord told people they could take whatever they wanted.
- Her witness stayed at the rental property overnight, and saw the scooter being taken that evening.
- A number of her belongings went missing, but the only one she wants compensation for is a motorized scooter that was on loan from the Lions Club.
- She is also requesting the return of two month's rent as compensation for improper notice.

The applicant is therefore requesting an order as follows:

Missing scooter	\$5,000.00
Total	\$6,200.00

The applicants witness testified that:

- The tenant had moved the majority of her belongings, but some of the belongings were left in the driveway to be moved the next day.
- The next morning he witnessed the landlord telling some men that they could take any of the belongings that they wanted, and the scooter was one of the items that they took.
- When asked by the landlord what date he saw the landlord giving some men permission to take the belongings and the scooter the witness stated I'm not sure, it was either Saturday or Sunday for Friday.

The respondent/landlord testified that:

- They did not lock the tenant out of the rental unit on September 12, 2009, and in fact they did not take possession of the property until the tenant returned the keys to them on September 15, 2009, stating that she was fully moved out of the rental unit.
- When they went to the property on September 15, 2009 they did not find any of the belongings that the tenant is claiming and there certainly was no scooter on the property.
- At no time did they ever tell anyone that they could take the tenant's belongings, and if anything went missing from the rental property it was not as a result of any actions on the part of the landlord.

Analysis

Two months' rent

The tenant is claiming that the landlord gave her an invalid Notice to End Tenancy, that was not in the proper form, and therefore she wants to be paid the equivalent of two months' rent as compensation for the invalid notice; however there is nothing in the Residential Tenancy Act that requires a landlord to compensate the tenant if they give a Notice to End Tenancy that is not in the proper form.

If a tenant receives a Notice to End Tenancy that is not in the proper form, they are not required to comply with that notice; however if they vacate anyway, that is their choosing and the landlord is not required to pay compensation.

Missing scooter

The tenant is claiming that the landlord gave away the scooter that she left on the rental property.

The tenant testified that the scooter was left in the driveway at the rental property and they were going to come back and get it the next day; however that evening the landlord allowed some men to take it.

The tenants witness testified that the scooter was left in the driveway of the rental property and the next morning he witnessed the landlord tell some men they could come and take it.

The testimony of the witness differs from the testimony of the tenant, and under questioning the witness could not even state what day the scooter was taken, listing three different days as possible days. Therefore I find the reliability of this testimony to be lacking, and since the landlord denies that a scooter was at the rental property, it is



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my finding that the tenant has not met the burden of proving that the landlords allowed a scooter, or any of the tenant's belongings, to be taken.

Conclusion

This application is dismissed in full without 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: January 21, 2010.

Dispute Resolution Officer