



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC RPP OPT

Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, for the return of the Tenant's personal property, an Order of Possession of the rental unit and other considerations.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by personal delivery by a third party on August 17, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so how much?
2. Is the Tenant entitled to his personal property and how may it be returned to him?
3. Is the Tenant entitled to an Order of Possession of the rental unit?

Background and Evidence

This tenancy started in November, 2008 as a month to month tenancy. Rent is \$385.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$182.50 in November, 2008.

The Landlord said he served the Tenant with a 1 Month Notice to End Tenancy for Cause dated May 28, 2010. He served the Notice on May 28, 2010 by posting it on the Tenant's door. The Effective Vacancy date on the Notice was June 30, 2010. The Tenant moved out June 30, 2010, but did not move his personal property out of the rental unit. The Landlord said the Tenant made no arrangements to store his personal property with the Landlord. The Landlord said he believed the Tenant's property was abandoned as the tenancy was over and there was no communications from the Tenant. The Tenant did contact with the Landlord July 13, 2010 to make arrangements to move his property. The Landlord indicated there was a \$165.00 storage fee to pay prior to moving the property. The Landlord said the storage fee has not been paid therefore he did not allow the Tenant access to the rental unit.

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The Tenant said he has no money to pay the storage fee and all he wants is his personal property back. The Tenant said the compensation claim indicated on the application for \$6,500.00 is not a claim, but it is the value that he believes his property is worth. As well the Order of Possession applied for is for access to the rental unit to move his property not to live at the rental unit. The tenant said he has a new rental unit.

The Tenant said he received the Notice to End Tenancy dated May 28, 2010 on his door, May 28, 2010. He said he moved out of the rental unit June 30, 2010, but he thought he could move his property later when he had help for the move. The Tenant said he talked to the Landlord July 13, 2010 and he was told he had to pay \$165.00 storage fee to get his property. He said he didn't have the money so he has been unable to get his belongings.

During the hearing the Landlord said the Tenant could come to the rental unit with the Tenant's advocate S.J. for 30 minutes to pick up his clothing, ID, some dishes and the Tenant's bed. The Landlord said the Tenant could pick these things up at no cost to the Tenant. The Landlord said the remaining property will be handled as abandoned property and will be sold in the appropriate manner as prescribed by the Residential Tenancy Act, to cover the storage and removal costs.

The Tenant and the Tenant's advocate agreed to this proposal. The Tenant's advocate said he would organize the meeting and partial move within the next five days and would phone the Landlord 24 hours prior to them coming to the rental unit.

Analysis

Regulation 24 (1) (a) says that a Landlord may consider that a tenant has abandoned personal property if the tenant leaves the personal property on residential property that he or she has vacated after the tenancy agreement has ended,

Regulation 26 (1) says that if a tenant claims his or her personal property at any time before it is disposed of the landlord may, before returning the property, require the tenant to reimburse the landlord for his or her reasonable costs of removing and storing the property.

I find that the Tenant had over 30 days, from May 28, 2010 to June 30, 2010, to make arrangements to move his personal property. The 1 Month Notice to End Tenancy for Cause does end the tenancy agreement on the effective vacancy date, which was June 30, 2010. The Landlord was within the regulations of the Act to deem the personal property was abandoned after the tenancy ended, if no arrangements were made by the Tenant. As well, the Landlord is entitled to charge a reasonable storage fee after the

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tenancy ends for any personal property left at the rental unit if no arrangements are made. As no arrangements were made by the Tenant, I find the landlord has grounds to charge the Tenant \$165.00 for storage prior to releasing the property.

I find the Tenant's monetary claim for \$6,500.00, was the value of the property not a claim and the Order of Possession was not to possess the rental unit, but to gain enter to get his property. As these items were clarified at the hearing, I am dismissing them as part of the application.

Under section 63 (1) the director can assist parties or offer parties an opportunity to settle their dispute. During the course of the hearing the Landlord and the Tenant agreed that the Tenant and his advocate can make an appointment with the Landlord within the next five days for a 30 minute appointment at the rental unit, so that the Tenant can get his clothing, ID, some dishes and his bed from the rental unit. The Landlord said this would be at no cost to the Tenant. This is a partial settlement for the listed items and does not pertain to any of the other personal property in the rental unit.

Conclusion

I find that the Tenant's has not established grounds for his application for the return of personal property without paying the storage fee and it is dismissed with leave to reapply. As well I find the monetary claim of \$6,500.00 and the Order of Possession for the rental unit are 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*.
