



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes RPP, LRE, FF, O

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to obtain an Order for the landlord to return the tenants personal property, an Order to suspend or set conditions on the landlords right to enter the rental unit and to recover the cost of the filing fee.

Service of the hearing documents, by the tenant to the landlord was done in accordance with section 89 of the *Act*, sent via registered mail on February 01, 2011. Mail receipt numbers were provided in the tenants' documentary evidence. The landlord was deemed to be served the hearing documents on February 06, 2011, the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to an Order for the landlord to return his personal property?

- Is the tenant entitled to an Order to suspend or set conditions on the landlords' right to enter the rental unit?

Background and Evidence

The tenant testifies that he rents a room in a shared house with other tenants. He states his tenancy started on June 01, 2007 and his monthly rent is \$450.00 per month which is paid on the 1st day of each month. This tenancy started as a fixed term until May 31, 2009 and now continues as a month to month tenancy.

The tenant testifies that he has had items of clothing taken from his rental unit. The tenant states he noticed in the summer of 2010 that his leather jacket and a long black coat were missing. He states he was busy at that time preparing for his vacation and did not think about them again until November 20, 2010 when he was attending a charity dinner and was required to wear his tuxedo as he is part of the Knights of Columbus organisation. When he went to find his tuxedo jacket he found that this was also missing. The tenant testifies that he searched his entire rental unit and then remembered that his other two coats were also missing. The tenant states he called the landlord to inform her and states that he thought these items had been stolen.

The tenant testifies that he went to the police to report his stolen items on November 29, 2010 and a police officer attended his unit on November 30, 2010. The tenant states the police officer checked his room and the doors and found no sign of forced entry. He states the police officer said someone either has a means to open the lock or has a key to his unit. The tenant has provided the police report number. He was advised by the officer to see a lawyer.

The tenant states he had to go out of town on December 17 to January 11 and on his return he set up a meeting with a lawyer who asked him many questions concerning his rental unit. The tenant states it was discussed that there could not have been an illegal

entry through the windows as they have steel bars on them. He states that the other tenants were discussed and he feels that none of them would have taken his clothing as they are not the same size as him so would not fit into his clothes. He states it was strange as he has power tools, other tools and a computer in his room but none of these items were missing.

The tenant testifies that on at least two other occasions the landlord has removed things from the house such as a box of garbage bags and some lighting tubes he had brought home for the other tenants to use. The tenant states the landlords' husband is the same size as him and although he has no evidence to show that the landlord has entered his room he is now nervous and stressed that someone has been into his room without his permission. The tenant states he has since changed the lock to his room but has given the landlord a key.

The tenant states he is not accusing anyone of taking these items of clothing from his room but finds it strange that only the landlord has a key to his room.

The tenant also requests permission to move from the rental unit without giving the landlord the required one months notice due to the thefts from his unit.

Analysis

The landlord did not appear at the hearing to dispute the tenants' application, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenants documentary evidence and affirmed testimony before me.

In this matter the tenant has the burden of proof to show that the landlord is responsible for removing his belongings from his rental unit or allowing access to his rental unit by a third party. As the tenant has been unable to provide any evidence to show that the

landlord has taken his personal belongings I find I am not able to uphold his application for an Order for the landlord to return his belongings.

The tenant has also applied for an Order to suspend or set restrictions on the landlords' right to enter the rental unit. As the tenant has been unable to provide any evidence to show that the landlord has entered his rental unit without permission or without the required 24 hours Notice or because of any emergency repairs required in his unit I am unable to suspend or set conditions on the landlords right to enter the rental unit.

I do advise the landlord however that she must provide tenants with 24 hours written notice to enter the rental unit unless dealing with emergency repairs pursuant to s.29 of the *Act*.

With regards to the tenants request to move from the rental unit without the required notice period; as the tenancy is not frustrated no orders can be made under the *Act* to allow the tenancy to end without the required Notice period as set out under s. 45 of the *Act*.

Conclusion

The tenants' application is dismissed without leave to reapply. As the tenant has been unsuccessful with his application he must bear the cost of filing his own application.

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: February 15, 2011.

Residential Tenancy Branch