



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation in the amount of \$2,350.00, for the alleged illegal entry by the landlord into the rental unit and for the loss of items that were disposed off by the landlord. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Did the landlord make an illegal entry into the rental unit? Is the landlord responsible for the loss of food items that the tenant states were disposed off by the landlord?

Background and Evidence

The tenancy started on January 25, 2011 and ended on June 26, 2011 pursuant to an order of possession that was granted to the landlord in a decision of a prior dispute. The tenant stated that the landlord posted the eviction notice on the front door on June 23, 2011 and entered the unit without permission on June 26, 2011. The tenant stated that the landlord threw out his food and turned off the refrigerator. The tenant referred to the loss of his computer which was dealt with and dismissed at the prior hearing.

The landlord stated that he posted the eviction notice on June 22, 2011 and waited until June 26, 2011 to enter the unit. The landlord was accompanied by his daughter and his son in law. They approached the home and found it to be unoccupied. Since the notice to vacate was a two day notice, the landlord entered on the third or fourth day depending on whether he posted it on June 22 as per his testimony or June 23 as per the tenant's testimony. Either way the landlord entered the unit not before 48 hours after the order of possession was posted on the front door of the rental unit.

The tenant filed video evidence that shows the landlord requesting him to use the fan while cooking, as the odour of cooking was rising into the upstairs suite. Another video shows the landlord's son in law on the front steps conducting a conversation with the tenant who was videotaping the conversation. During the conversation, the landlord's son in law turns around and runs into the home while the tenant is accusing him of threatening behaviour. As the son in law is getting back into the home, he mentions that he is not threatening the tenant but on the contrary, the tenant has a stick in his hand. This stick is not visible in the video recording. During the discussion of the contents of the tenant's evidence, the tenant hung up the phone and left the hearing by conference call.

Analysis

The tenant has claimed \$2,350.00 for the alleged illegal entry of the landlord into the rental unit and for the loss of his food that he states was disposed off by the landlord. Based on the sworn testimony of both parties and the documentary evidence filed into evidence, I find that the landlord entered the rental unit more than 48 hours after posting the eviction notice on the front door and after the tenant had moved out. Therefore I find that the tenant has not proven his case. In addition, the tenant voluntarily left the conference call and therefore did not fully testify in support of his monetary claim.

Accordingly, the tenant's claim is dismissed without leave to reapply.

Conclusion

The tenant's application is dismissed.

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: October 11, 2011.

Residential Tenancy Branch