



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RPP

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Manufactured Home Park Tenancy Act (Act)*, regulations or tenancy agreement and an Order for the landlord to return the tenants personal property.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross exam each other on their evidence. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to an Order for the return of the tenant's personal property?

Background and Evidence

Both parties agree that this month to month tenancy started on June 17, 2009 and ended on December 12, 2011. Rent for this site was \$500.00 per month and was due on the first day of the month in advance.

The tenant testifies that the landlord ended his tenancy with a Two Month Notice for landlord's use of the property. The tenant testifies that he removed his trailer from the landlord's property on December 12, 2011 but did not remove the remainder of his belongings as they were stored in the garage and the landlord was out of town. The tenant testifies that he tried to call the landlord about coming to collect his belongings but could not get through by telephone. The tenant testifies that when he returned to the landlord's property on January 04, 2012 the landlord had blocked the entrance to the garage with vehicles so the tenant could not gain access. The tenant testifies that he attempted to retrieve his belongings again on February 19, 2012 but was told by the landlord that if the tenant enters the property the tenant will be arrested.

The tenant testifies that other people had access to the garage and some of the tenants belongings went missing. The tenant testifies that later one of the local people living close to the landlord informed the tenant that the landlord had a garage sale and had sold some of the tenant's belongings.

The tenant has provided a four page list of the alleged belongings left at the property. The tenant seeks an Order for the landlord to return his belongings and a Monetary Order in compensation for unreturned items of \$20,000.00.

The landlord testifies that he gave the tenant a hand written two month Notice to end tenancy in August 2011 and a verbal Notice to end tenancy. When the tenant did not move out the landlord testifies he served the tenant with a valid Two Month Notice to End Tenancy in either September or October, 2011.

The landlord testifies that the tenant did move out but failed to remove his belongings from the garage and the property. The landlord testifies that someone broke into the garage and stole some of the tenants and the landlord's belongings. The landlord testifies that at that time he believes the items stolen from the tenant was a compressor, a welder and a pressure washer. The landlord testifies that the police were called and

they suspected two local children, who the tenant was friendly with, of having broken into the garage. However no charges were laid due to insufficient proof.

The landlord testifies that he gave the tenant nearly two weeks to come and remove his belongings but by the end of December 2011 when the tenant had not done so the landlord states he did remove the tenant's belongings and left them outside the garage. Some of these items are still outside, a table has been placed in the landlord's house and there are some boxes inside.

The landlord testifies that he does not know what items were left and what items the tenant took with him when he left the site.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to section 5 of the Residential Tenancy Regulations 25(1) and 25(2) which deal with abandonment and landlords obligations when a tenant has abandoned personal property.

25 (1) The landlord must

- (a) store the tenant's personal property in a safe place and manner for a period of not less than 60 days following the date of removal,
- (b) keep a written inventory of the property,
- (c) keep particulars of the disposition of the property for 2 years following the date of disposition, and
- (d) advise a tenant or a tenant's representative who requests the information either that the property is stored or that it has been disposed of.

(2) Despite paragraph (1) (a), the landlord may dispose of the property in a commercially reasonable manner if the landlord reasonably believes that

- (a) the property has a total market value of less than \$500,
- (b) the cost of removing, storing and selling the property would be more than the proceeds of its sale, or
- (c) the storage of the property would be unsanitary or unsafe.

The landlord agrees that he did not store the tenant's belongings for a period of 60 days or keep a written inventory of the items removed. The landlord also agrees that these belongings collectively would have a value exceeding \$500.00. However the landlord disputes some of the items on the tenants list and claims these items had previously been stolen from the garage. The landlord also argues that he does not know which items remained at the property and which items the tenant removed when he moved out.

The landlord does agree that there are items at the property which do belong to the tenant including, but not limited, to a table, a camper, a dressing table and a number of boxes with unknown contents.

As neither party is able to determine exactly what is still remaining at the landlord's property I HEREBY ORDER the landlord to return the tenant's personal property. The tenant must contact the landlord in writing and request a date and time the tenant may collect his personal belongings.

As there is no evidence to show what is remaining at the landlord's property I am unwilling to make a Monetary Order for the tenant concerning compensation for missing items. Consequently, the tenant is at leave to reapply for the monetary portion of his claim when that has been determined.

Conclusion

I HEREBY ORDER the landlord to return the tenants personal property.

The reminder of the tenants claim 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: February 29, 2012.

Residential Tenancy Branch