



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP and MNDC

Introduction

This hearing was convened on the tenant's application of February 24, 2012 seeking an order for return of personal property and/or compensation of \$25,000.

Issue(s) to be Decided

This matter requires a decision on whether the tenant is entitled to an order for the claims submitted.

Background and Evidence

This tenancy began on December 18, 2010 and ended on April 28, 2011 by a bailiff's eviction after the tenant failed to honour an Order of Possession served on April 18, 2011.

This tenancy has been the subject of three previous dispute resolution proceedings.

April 14, 2011. In a direct request proceeding, the tenant was found to have failed to pay rent and the landlord was issued with the Order of Possession on April 14, 2011.

September 7, 2011. In her decision of September 12, 2012, the Dispute Resolution Officer, dealing with applications by both parties, dismissed the tenant's application for return of her security deposit without leave to reapply when the deposit was awarded to the landlord in set off against an award for unpaid rent, loss of rent, cost of changing locks, costs of filing the Order of Possession with the Supreme Court of British Columbia and bailiff fees. The landlord stated that the monetary order remains unsatisfied.

December 21, 2011. The tenancy was again the subject of a hearing on the tenant's application for a monetary award of \$5,000 for damage or loss under the legislation or rental agreement. This application too was dismissed without leave to reapply when the tenant did not appear.

April 25, 2012. The present hearing was again convened on the tenant's application for return of personal property and/or \$25,000.

In the present hearing, the tenant alleges bugs in the rental unit and compensation for clothing. The landlord stated she had no knowledge of the property in question as it had been boxed by the bailiff and removed from the rental building to the exterior. She stated the tenant had returned three days after the eviction and went through the boxes. The landlord had no knowledge of the tenant's reference to bugs in the refrigerator or elsewhere.

Analysis

I find that the tenant's previous claims for return of her security deposit (September 7, 2011) and for damage or loss under the legislation or rental agreement (December 21, 2011) have been dismissed without leave to reapply.

Therefore, I find that the present application is *res judicata* or previously heard and must be dismissed without leave to reapply for that reason.

In addition, I further find that the present application is without merit and that it constitutes an abuse of process as contemplated under section 62(4)(c) of the Act. It is dismissed for that reason, as well..

Accordingly, as authorized by section 71 of the *Act*, I hereby order the tenant to pay the \$50 filing fee for this proceeding to the director.

Conclusion

The application is dismissed WITHOUT leave to reapply as *res judicata*, and for abuse of process.

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: April 25, 2012.

Residential Tenancy Branch