



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order for the landlord to comply with the *Act*, regulation or tenancy agreement and to return the tenant's property, and to recover the filing fee.

The tenant and the landlords appeared at the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As both parties attended the hearing, and no evidence packages were submitted by either party, I find the parties were served in accordance with the *Act*.

Issue(s) to be Decided

- Should the tenant be granted a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlords be ordered to comply with the *Act*, regulation or tenancy agreement and return the tenant's property?
- Should the tenant recover the filing fee?

Background and Evidence

Neither party submitted an evidence package prior to the hearing. The parties agree that although a lease agreement was signed, the tenant did not move into the rental unit and cancelled the cheques he provided to the landlords for the first month of rent and for the security deposit before they could be cashed. Both parties agree that the tenant did not move into the rental unit.

The tenants claim is for \$15,000.00 consisting of \$14,000.00 for a leather sectional couch (the "couch"), \$600.00 for lumber, and \$400.00 for a barbeque. The tenant testified that he lent his couch to the former tenant who was a friend of his. According to the testimony of the landlords, the former tenant moved out of the rental unit, leaving the couch and lumber at the rental unit. As the tenant did not move into the rental unit, the landlords have stored the couch and lumber until the former tenant notifies them with instructions on what to do with the items. The landlords stated that they have never received written instructions or have heard from the former tenant confirming that the items belong to the tenant. The landlords are not prepared to give the couch or lumber to the tenant until they have instructions from the former tenant. In the interim, the landlords stated they are storing the couch and lumber from the former tenant in a safe place.

The landlords state the barbeque that remains at the rental property does not belong to the tenant. The tenant claims that he and his girlfriend have 2 of the same barbeques and that landlords are not being truthful by claiming the barbeque belongs to the landlords. The landlords responded by stating the barbeque was there before the tenant moved in, and belongs to their son.

The tenant stated the replacement value of the couch is \$14,000.00. The tenant stated that he lent the couch to his friend, the former tenant. The tenant did not describe the lumber in detail or the describe value, other than stating it was worth \$600.00 in the dispute details.

The landlords testified that the value of the couch was originally stated in an e-mail to them from the tenant, as \$8,000.00 and in the application, the amount was increased to \$14,000.00.

Analysis

Based on details of the application and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

\$14,000.00 claim for couch – The tenant claims the couch belongs to him, and the replacement value is \$14,000.00. The tenant failed to provide documentary evidence supporting the value of the couch or that he owns the couch, such as a receipt or any witness testimony. According to the testimony of the landlords, the value of the couch has increased from \$8000.00 to \$14,000.00. I find that the tenant has not provided sufficient evidence regarding the ownership and value of the couch. Therefore, I

dismiss the tenant's claim for the couch, without leave to reapply, due to insufficient evidence.

Claim for lumber and barbeque – The tenant did not provide any photos, receipts, or witnesses who could support the tenant's claim that the lumber or barbeque belonged to him or what the value was of the lumber and barbeque would be. The landlords disputed the tenant's testimony that the barbeque belonged to the tenant. Therefore, I **dismiss** without leave to reapply, the tenant's application for the cost of the lumber and barbeque due to insufficient evidence.

Request to order the landlord to comply with the Act and return the tenant's property – The landlords testified that they continue to store the couch until they receive direction from the former tenant. The tenant did not dispute their testimony regarding the storage of the couch. I find the landlords are storing the couch in accordance with section 25 of the *Residential Tenancy Regulation*. The tenant did not provide sufficient evidence regarding the ownership of the couch. The landlords stated they have not received direction from the former tenant who possessed the couch prior to vacating. Therefore, I **do not** order the landlords to return the couch to the tenant. The tenant may wish to ask the former tenant to provide written directions to the landlords, authorizing them to release the couch to the tenant.

The tenant did not succeed with the application; therefore, I **do not** award recovery of the filing fee.

Conclusion

I **dismiss** the application of the tenant due to insufficient evidence, without leave to reapply.

I **do not** award the recovery of the filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 05, 2012

Residential Tenancy Branch