



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Whether or not the landlord seized and illegally disposed of the tenants property, or whether the tenants abandon the property and the landlords dispose of it in a manner allowed under the Residential Tenancy Regulations.

Background and Evidence

This tenancy ended on June 30, 2012 at 1 p.m., and both the landlord and the tenant state that at that time the tenant left the property, leaving the door open and unlocked, and drove away from the property.

The landlord testified that:

- Since the tenancy had ended, and the tenant left, leaving the door wide open they assume she had vacated and would not be returning for any the items remaining in the rental unit.
- The items left behind by the tenants at that time were few, old, and, in their opinion, of little value.

- They therefore secured the unit by changing the locks with locks from another unit, and made arrangements to have the remaining items disposed of.
- That night, before anything had been removed, the tenants gained access to the rental unit and removed more of their items. They are not sure how the tenants gained access, however they believe the tenants still had master keys to all the units from when they used to be managers.
- Since the remainder of the items left behind were of little value and in their estimate had a value of far less than \$500.00, they disposed of the remaining items and had all the locks in the building changed so that the master key would not open any of them.
- They therefore ask that the tenants claim for \$5,000.00 be dismissed as they believe they followed the requirements for abandoned property under the Residential Tenancy Regulations.

The tenants testified that:

- When they left the building just after 1:00 PM on June 30, they did leave the door to the rental unit open, and they did not, at that time, tell the landlord they would be returning.
- They did come back to the unit just after midnight, and gained entry using the key on their keychain. They assumed it was their usual key and were not aware that the locks had been changed.
- When they returned they only removed some pots and pans and the remainder of the items were left in the unit however it was obvious someone else had already been in the unit as some of the items had been moved, however at that time, they did not notice whether any items were missing.
- They had planned to come back for the remainder of their items, however the landlords illegally seized their items by changing the locks, and then dispose of them.
- The value of the items disposed of by the landlord, in their estimation, was more than \$5,000.00, and in fact they have estimated the amount at \$5,397.00 for replacement cost of those items.
- They are therefore requesting an order for the landlords to pay them for the replacement cost of the items that were disposed of by the landlords.

Analysis

It is my finding that the landlords did not illegally seize the tenant's items.

This tenancy was to end at 1 p.m. on June 30, 2012, and the tenant testified that at that time she left the unit unlocked, with the door open, and, without telling the landlord she would be back, drove off.

Based on the actions of the tenant it is my finding that the landlord made a reasonable assumption that the tenant had vacated, as I find it very unlikely that she would have left the door open and unlocked if she was not returning possession to the landlord.

It was also a reasonable assumption on the part of the landlord, that the tenant was abandoning the items that were left behind, because again I find it very unlikely that the tenant would have left the door unlocked and open if she were intending to return to pick up the remainder of her items. Any reasonable person would ensure that the door to their rental unit was locked to protect their remaining items, if they intended to return for those items.

Therefore having reasonably assumed that the tenants had vacated, and having reasonably assumed that the remaining items had been abandoned, the landlords then have to follow the Residential Tenancy Regulations with regards to abandoned items.

Those regulations in part state:

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
\$500.00

In this case it is my finding, having viewed the photo evidence of the items left behind, that the landlord's belief that the items value was less than \$500.00 was a reasonable belief. Keep in mind that the landlord was making a determination on items they were used, old, and some were even damaged.

The tenant seems to believe the items were worth more than \$5,000.00, however the tenant has based that amount on replacement costs for many items that were quite old, whereas the Residential Tenancy Regulations requires that the landlord make the determination based on market value, and market value of use items is usually quite low.

Therefore since I have determined that it was reasonable for the landlords to dispose of the items left behind by the tenants, I am not willing to issue a monetary order in favor of the tenants.

Conclusion

This application is dismissed in full without 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: October 01, 2012.

Residential Tenancy Branch