



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RPP, FF

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss, an order for the return of personal property and recovery of the filing fee.

This hearing was adjourned from December 3, 2012 when the Landlord's Counsel attended and requested an adjournment. The adjournment was granted for procedural fairness for the proper service of the Landlord's evidence. As well the Tenant's Application was limited to the original \$3,000.00 monetary claim as a proper amendment to the Application was not filed or served on the Landlord by the Tenant.

The Tenant attended the adjourned hearing by conference call and gave undisputed testimony. The Landlord did not attend. The Tenant states that the original notice of hearing package and evidence was served on the Landlord initially by regular post on October 26, 2012 and again by Canada Post Registered Mail on October 31, 2012 and has submitted the Canada Post Registered Mail Customer Receipt as confirmation.

The Tenant states that no evidence has yet been served upon him by the Landlord. I accept the Tenant's undisputed testimony and shall not consider the Landlord's late evidence in its entirety as the Tenant has not been served. The hearing shall proceed with the Tenant's undisputed testimony.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Is the Tenant entitled to an order for the return of personal property?

Background, Evidence and Analysis

The Tenant seeks a monetary order for \$3,000.00. This consists of 1 Case Hydrostatic Lawn Tractor for \$1000.00, 1 Honda Lawn Tractor model 3810 for \$750.00, 1 5-Ton Chevy Truck with Hyab Crane for \$1,200.00, 1 1958 Morriss Minor Blue (Parts Car) for \$500.00, 1 1965 VW Dune Buggy for \$250.00, 1 1970's VW Convertible for \$250.00, 1 1970's VW Beetle for \$250.00, 1 20's Glass Craft Boat and Trailer for \$750.00, 6 VW Motors (@\$50.00 each) for \$300.00, 3 VW Transaxles (@\$150.00 each) for \$450.00, 1 roll of green electric wire for \$200.00, 3 16" Tires on rims (@\$50.00 each) for \$150.00, Miscellaneous Morris Minor Parts for \$200.00, 1 16' Sangster Fiberglass Boat and Trailer for \$200.00, 1 John Deere Yard Trailer for Lawn Tractors for \$100.00, 1 Shop Dust Collection System for \$100.00, 2 crates of 5/16 Chain (@\$50.00 each) for \$100.00, 1 pile of metal for \$100.00, 1 metal rack for \$100.00, 1 storage tent for \$250.00, , 1 Storage Tent frame for \$50.00, 1 Morriss Minor Shell for \$20.00, 1 Small Trailer Axle with 12" Tires for \$75.00, 1 Electrolux Vacuum for \$200.00, 1 Queen Sized Mattress for \$300.00, 1 London Drugs Medical Receipt for \$80.00, Food in the Refrigerator for \$150.00, Food left on Counter for \$50.00, Dishes and Utensils for \$20.00, 1 32" Television for \$100.00, 1 20 Liter pail of Universal Tractor Oil for \$100.00, 1 20 Liter pail of Diesel Engine Antifreeze for \$75.00, 1 20 Liter pail of Dextron 3 Transmission Oil for \$120.00, 1 20 Liter pail AW 46 Hydraulic Oil for \$100.00, 1 Antique Canvas Kyak for \$200.00, 80 sets of Brake Pads (@\$5.00 each) for \$400.00, 1 Band Saw for \$75.00, 1 Table Saw for \$50.00, 1 Forny Welder for \$100.00, 1 Craftsman Welder for \$100.00, 1 36" Electric Fan for \$100.00, 2 Large Trailer Axles (@\$100.00 each) for \$200.00 and 1 Metal Welding table with castors for \$100.00.

The Tenant states that these are all old used items that he has accumulated over the 20 plus years living at this house.

I accept the undisputed testimony of the Tenant and find that the Tenant has made a premature application. The Tenant seeks both the return of the missing items as well as a monetary order for compensation for them. On this basis, I grant the Tenant an order for the Landlord to return the above listed items of personal property to the Tenant forthwith. The Tenant's monetary claim is dismissed with leave to reapply in the event that the above order cannot be accomplished.

Conclusion

The Tenant's monetary claim is dismissed with leave to reapply.

The Tenant is granted an order for the Landlord to return the itemized list of personal property.

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: March 07, 2013

Residential Tenancy Branch