



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss.

The Tenant attended the hearing by conference call and gave undisputed testimony. The Landlord did not attend. The Tenant states that he personally served the Landlord on November 30, 2012 with the notice of hearing package to the receptionist at the Landlord's business address. I accept the undisputed testimony of the Tenant and find that the Landlord has been properly served with the notice of hearing package in person on November 30, 2012.

The Tenant has clarified during the hearing that his unit number has changed and wished to update this information on his application. The Tenant still resides at the same building. The Tenant's unit number shall be amended to reflect this change.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

The Tenant states that the Landlord had him moved to an alternate room during renovations of his rental and had the below listed items stored in another room. The Tenant subsequently discovered all his belonging missing from the storage room and was told by a staff member that his belongings were donated and given away without reason or notice in September of 2012. The Tenant states that he did not file a police report. The Tenant provided a list of items to the Landlord on October 22, 2012 with no action taken by the Landlord.

The Tenant has provided a list for the following missing items and his estimation of the replacement costs.

New Guitar Picks no value given, 2 20 pound dumbbells for \$45.00, drawing book for \$11.00, mop and broom for \$14.00, reading glasses and prescription glasses no value given, sharpening stone \$5.00, razors for \$6.00, soap and shampoo for \$20.00, calone for \$10.00, 4 tubes of toothpaste for \$20.00, hairbrush for \$6.00, waste container for \$22.00, two knee braces for \$190.00, sewing kit for \$16.00, keychain for \$20.00, native choker for \$40.00, hammer for \$54.00, utility tool for \$29.00, flashlight and small knife for \$15.00, skateboard for \$30.00, Rock Poster for \$40.00, work boots for \$55.00, muckboots for \$60.00, Tupperware containers for \$6.00, two sleeping mats for \$28.00, Tarps for \$12.00, 2 pairs of runners for \$60.00, 20 movies for \$45.00, necklace and bracelet for \$120.00, 4 pairs of Longjohns for \$45.00, painter pants for \$30.00, new jeans for \$34.00, Lucky #13 coat for \$134.00, Skidoo Coat for \$200.00, winter coat for \$69.00, Two 3 in 1 long jackets for \$100.00, one long raincoat with liner for \$60.00, swiss hikers for \$70.00, mapleleafs toque for \$30.00, leather and wool toque for \$40.00, whiskey flask for \$15.00, wire cutters no value given, plyers and screwdriver no value given, rulers no value given, autographed drumsticks no value given, photos no value given, drawing pencils no value given, VHS tapes no value given, laser light pointer no value given, playing cards no value given, cribboard no value given, six dice \$50.00 each, sony stereo for \$40.00, lamp for \$30.00, fan for \$30.00, RCA speakers for \$20.00, wireless headphones for \$29.00, JVC headphones for \$30.00, 1500watt hairdryer for \$22.00, digital camera no value given, guitar tuner for \$16.00 and two power bars for \$10.00.

The Tenant states that the remaining items are to be ignored as they relate to another dispute.

Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I accept the undisputed testimony of the Tenant and find that the Landlord was negligent in disposing of the Tenant's personal property. However the Tenant has failed to provide any actual proof of any amounts required to compensate the Tenant for the claimed loss. I find that the Tenant has failed to provide sufficient evidence to satisfy me on the monetary amount being claimed, but has satisfied me that a nominal award is required. Accordingly I make a nominal monetary award for the Tenant for \$800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$800.00.

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

