



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant's Application filed February 18, 2013: MNDC; OLC; RPP; FF

Landlord's Application filed April 5, 2013: MNR; MNDC; FF, O

Introduction

The Hearing with respect to the Tenant's Application was convened on March 13, 2013 and adjourned to April 18, 2012. The Tenant seeks compensation for damage or loss under the Act, Regulation or tenancy agreement; an Order that the Landlord comply with the Act and return the Tenant's personal property; and to recover the cost of the filing fee from the Landlord. **An Interim Decision was rendered on March 19, 2013, which should be read in conjunction with this Decision.**

On April 5, 2013, the Landlord filed her Application seeking a Monetary Order for unpaid rent; compensation for damage or loss under the Act, regulation or tenancy agreement; to recover the cost of the filing fee from the Tenant; and for "other" relief. The Landlord's Application was scheduled to be heard at the same time as the Tenant's adjourned application.

The parties gave affirmed testimony at the Hearing.

Preliminary Matter

At the outset of the April 18, 2013 Hearing, it was determined that the Tenant had not yet picked up the Landlord's Notice of Hearing documents that were sent by registered mail. He stated that he has been working out of town and therefore has not seen the Canada Post Notice advising that the documents are ready for pickup. I gave the Tenant the information with respect to where they could be picked up and cautioned the Tenant to do so.

I adjourned the Landlord's Application in order to allow the Tenant to pick up the documents from the postal outlet. I heard none of the merits of the Landlord's application. **This matter is adjourned to 10:30 a.m., May 21, 2013.** Under separate

cover, the Residential Tenancy Branch will provide both parties with a Notice of Reconvened Hearing. The Landlord is not required to serve the Tenant with the Notice.

Issues to be Decided

- Should the Landlord be ordered to return the Tenant's personal property?
- Is the Tenant entitled to compensation pursuant to the provisions of Section 67 of the Act?

Background and Evidence

Further to the Order contained in my Interim Decision, the Landlord re-served the Tenant with her documentary evidence by registered mail sent on March 14, 2013. The Tenant acknowledged receipt of the documents.

The Tenant gave the following additional testimony at the reconvened Hearing:

The Tenant repeated that he arrived at the rental property to collect the shed at 8:00 a.m. on February 16, 2012, but was not able to finish dismantling and moving the shed by 5:00 p.m. He stated that the Landlord refused to allow him any extra time to complete the job. The Tenant said that the Landlord's written estimates with respect to the time required to dismantle and move the shed indicated that the writers of the estimates had no idea what the dismantling entailed. The Tenant stated that there were 4 people working on removing the shed on February 16, 2013, and that he thought it would take 1 or 2 hours to complete the job. He stated that he would prefer to have an Order allowing him another full day, in case of unforeseen difficulties, because he didn't want to have to make another application and wanted to be sure to get it done. The Tenant stated that he wished to be present when the shed was removed to ensure that it was done properly.

The Landlord's agent gave the following additional testimony at the reconvened Hearing:

The Landlord's agent stated that the Landlord would not allow the Tenant to come on the rental property again, under any circumstances. He stated that the Tenant is lying about the time required to remove the shed. The Landlord's agent said that he is a builder and understands fully how long it would take. He stated that there was no electrical power to the shed, no siding, and no gyprock. The Landlord's agent stated that the Tenant has made the Landlord's life miserable since last May with late rent, no rent, and one excuse after the other. He stated that the Tenant could send anyone else to pick up the shed, or pay to have someone collect it.

Analysis

This Hearing was challenged by the degree of animosity between the parties. Both parties accused the other of lying and deceit.

I advised the Landlord that she had no right to stop the Tenant from picking up the remainder of his property. I ordered that the Tenant be given **one final opportunity to remove his belongings from the rental property on April 20, 2013, between the hours of 9:00 a.m. and 1:00 p.m.**

I also cautioned the Tenant that this was his last opportunity to finish the job and that **if he does not complete the job on April 20, 2013, I order that the Landlord can then treat whatever remains as abandoned property and may dispose of it pursuant to the provisions of Part 5 of the regulation.**

The Tenant did not provide any documentary evidence to support his claim for compensation in the amount of \$5,000.00. Therefore, this portion of his Application is **dismissed without leave to reapply.**

Conclusion

The Landlord's Application is adjourned to 10:30 a.m., May 21, 2013. Under separate cover, the Residential Tenancy Branch will provide both parties with a Notice of Reconvened Hearing. The Landlord is not required to serve the Tenant with the Notice.

The Tenant's application for a monetary order is **dismissed without leave to reapply.**

I HEREBY ORDER that the Landlord provide the Tenant with unobstructed access to the rental property for the sole purpose of removing the remainder of his shed, as follows: **between the hours of 9:00 a.m. and 1:00 p.m., April 20, 2013.**

I FURTHER ORDER that if the Tenant does not complete the removal of the remainder of his shed on April 20, 2013, between the hours of 9:00 a.m. and 1:00 p.m., the Landlord may dispose of what remains pursuant to the provisions of Part 5 of the regulation.

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 19, 2013

Residential Tenancy Branch