



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation in the amount of \$25,000.00 for the loss of items from his cube vans and open trailer, while parked on the landlord's property.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord responsible for the loss of items that the tenant states went missing from the inside of his cube vans and open trailer while they were parked on the landlord's property?

Background and Evidence

The tenancy started on July 01, 2008 and ended in August 2012. The monthly rent was \$2,500.00. The rental unit is a house located on five acres of land.

On October 04, 2012, the parties attended a hearing by conference call to address the landlord's application for an order of possession and a monetary order for unpaid rent. The notice to end tenancy was served on August 02, 2012 and was upheld by the arbitrator. An order of possession was issued to the landlord and the landlord's claim for a monetary order was dismissed with leave to reapply.

During this hearing today, on October 16, 2013, the tenant agreed that he had left a major portion of his belongings behind when he moved out. He stated that these items were placed in the garage, in three locked cube vans and in an open trailer. The vans and trailer were parked on the rental property.

The tenant stated that he also left behind a camper, tyres, roofing material and a collector vehicle. The tenant agreed that he had left these items on the property for the whole month of September 2012, unattended, while he made arrangements to have them removed.

The tenant is claiming \$25,000.00 for the cost of items that he states went missing from his locked cube vans and from his open trailer. He stated that two persons, who are employees of the landlord, were helping themselves to his property. The tenant stated that his witness who lives adjacent to the rental property spoke with these two persons who informed him that they were acting on the landlord's instructions. The landlord denied having instructed his staff to remove the tenant's items.

During the hearing, I allowed the tenant sometime to contact the witness and provide the witness with information to join the hearing. The witness was at work and did not make the call before the hearing ended.

The tenant filed a detailed list of items that he states were stolen, along with the value of each item for a grand total of \$53,580.00.

The landlord stated that items belonging to the tenant continued to remain on the property for several months after the tenancy ended. In April 2013, the landlord rented a 40 yard bin to dispose of the items left behind. The landlord stated that the vehicle was removed in July 2013 and that he incurred a cost of approximately \$3,000.00 to remove these items.

The tenant also provided a copy of the police report which states that on October 04, 2012 at approximately 2005 hours, the tenant reported a break and enter at the rental unit and a loss of approximately \$15,000.00 worth of tools. The tenant also filed a copy of a police report which describes the conversation that the police officer had with an information officer at the Residential Tenancy Branch Office.

The report states that the information officer informed the police officer that "*the landlord's claim that the items were abandoned did not justify the landlord in removing the items*". The tenant relied on this information when he made his monetary claim.

Analysis

It must be emphasized that in order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof.

The tenant bears the burden of establishing each claim on the balance of probabilities. The tenant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the landlord. Once that has been established, the tenant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally the tenant must show that reasonable steps were taken to address the situation and to mitigate the damage or losses that were incurred.

In this case, the tenant reported, a break and enter theft to the police which resulted in a loss of approximately \$15,000.00, worth of personal items. The tenant's evaluation of the loss differed in his application for compensation. While it is more likely than not that the theft took place, I find that the tenant has not proven that the landlord committed the theft or the persons responsible for the theft acted on the instructions of the landlord. Finally the tenant did not take steps to remove his belongings in a timely manner and place them in a safe location. He placed them outside the house in a location that was accessible to members of the public, in addition to the landlord. .

For the above reasons, I find that the tenant has not proven his allegation that the landlord removed or stole the tenant's personal belongings that he is claiming compensation for. Therefore his application is dismissed and he must bear the cost of filing this application.

Conclusion

The tenant's application is dismissed.

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 16, 2013

Residential Tenancy Branch

