



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC ERP RP RPP LRE OPT FF

Introduction

This hearing was convened as a result of the application of the tenant for dispute resolution under the *Residential Tenancy Act* (the “Act”). The tenant applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, to make emergency repairs for health or safety reasons, to make repairs to the unit, site or property, to return the tenant’s personal property, to suspend or set conditions on the landlord’s right to enter the rental unit, and to recover the filing fee.

The tenant attended the hearing. As the landlord or the landlord’s agent did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice”) was considered. The tenant testified that the Notice and evidence was served on the landlord and the landlord’s agent by separate registered mail packages on August 29, 2013. The tenant provided two registered mail tracking numbers in evidence. The tenant stated that both packages were returned to him on or about September 17, 2013 as “unclaimed”. The tenant also provided a photocopy of both registered mail packages in evidence which supports that both packages were returned to the tenant as “unclaimed”. The tenant stated that the address for the landlord was the service address provided by the landlord on the tenancy agreement for his agent. A copy of the tenancy agreement was provided in evidence which supports that the address to which the tenant mailed the registered mail packages was the service address provided by the landlord as his agent. Based on the above, I find the landlord and the landlord’s agent were served in accordance with the *Act*. I note that refusal of service does not constitute grounds for a Review.

I have reviewed all oral, documentary and digital evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

At the outset of the hearing, the tenant requested to withdraw all portions of his application with the exception of his request for an order directing the landlord to return his personal property, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, and to recover his filing fee. As a result, the tenant is at **liberty to reapply** for the remainder of his original application. I will only consider the tenant's request for an order directing the landlord to return the tenant's personal property, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, and the tenant's request to recover his filing fee in this proceeding.

The tenant confirmed that he was not seeking an order of possession as indicated in his application as he continues to reside in the rental unit. As a result, the portion of the tenant's application related to possession of the rental unit is dismissed.

Issues to be Decided

- Should the landlord be ordered to return the tenant's personal property?
- Did the tenant provide sufficient evidence to prove that the landlord should be directed to comply with the *Act*, regulation, or tenancy agreement?

Background and Evidence

The tenancy agreement was submitted in evidence. A month to month tenancy began on August 1, 2008. Monthly rent in the amount of \$625.00 is due on the first day of each month and according to the tenant is comprised of \$500.00 rent, \$75.00 for RV ("Recreational Vehicle") parking, and \$50.00 for use of a storage area next to the rental unit for a total monthly amount of rent of \$625.00. The tenant paid a security deposit of \$250.00 at the start of the tenancy. The tenant stated that he pays his monthly rent via automatic withdrawal from this bank account.

The tenant alleged that on July 10, 2013, the landlord removed the tenant's RV without his permission from the rental unit which breached their tenancy agreement. The tenant referred to the tenancy agreement submitted in evidence which clearly indicates that parking for two (2) vehicles and RV parking are included in the tenancy agreement. The tenant described the rental unit as one of several sites rented by the landlord on a large piece of property, which includes space next to his home to park his RV, and which also includes a storage area.

The tenant stated that the landlord used a tractor shown on one of the videos submitted in evidence, and smashed out the front windows of the tenant's RV causing major structural damage to the RV. The tenant stated that the landlord placed his RV on a different area of the landlord's property and moved a bus into the space where the tenant's RV was previously. The tenant submitted a video of a bus backing into the space described by the tenant which supports the tenant's testimony.

The tenant is seeking to have the landlord ordered to return his RV to the original location next to the rental unit where the tenant continues to pay for RV parking as part of his monthly rent and in accordance with the tenancy agreement. The tenant is also seeking to have the landlord ordered to level the RV and not to further damage the RV when returning the RV back to the original location next to the rental unit.

The tenant testified that the landlord attends the rental unit without notice on a regular basis. The tenant is seeking that the landlord be ordered to comply with the *Act*, and to provide the required notice pursuant to the *Act* before entering the rental unit.

Analysis

Based on the documentary evidence, digital evidence, the undisputed testimony of the tenant, and on the balance of probabilities, I find the following.

I find the digital evidence and testimony provided by the tenant to be compelling. I accept the tenant's undisputed testimony which is supported by the digital evidence submitted by the tenant, that the landlord breached the tenancy agreement by attending the rental unit without permission or notice, and removed the tenant's personal property, the tenant's RV, on or about July 10, 2013 without the tenant's permission. I find that the monthly rent also includes RV parking and a storage area, all of which are on the rental unit property.

Based on the above, **I order** the following:

- 1. I ORDER the landlord to immediately remove the bus that the landlord has placed on the rental unit property.**
- 2. I ORDER the landlord to return the tenant's RV back to RV's original location on the rental unit property in a safe manner and without further damaging the tenant's RV, including leveling of the RV, no later than October 31, 2013 at 1:00 p.m.**

3. I ORDER the landlord to comply with section 29 of the *Act* regarding the entering of the rental unit, which includes the residential property of the rental unit.

As the tenant's application had merit, **I grant** the tenant the recovery of his filing fee in the amount of **\$50.00**. The tenant indicated that he would prefer a monetary order versus a one-time rent reduction due to the fact that the tenant pays his monthly rent through automatic withdrawal. As a result, **I grant** the tenant a monetary order pursuant to section 67 of the *Act* in the amount of **\$50.00**. The tenant must serve the landlord with a copy of this Decision and the monetary order and may enforce the monetary order at the Provincial Court of British Columbia (Small Claims).

I grant the tenant leave to apply for monetary compensation should the landlord fail to comply with my Orders described in this Decision.

Conclusion

The tenant is at liberty to reapply for the portion of his application that was withdrawn at the outset of the hearing.

I ORDER the landlord to immediately remove the bus that the landlord has placed on the rental unit property.

I ORDER the landlord to return the tenant's RV back to RV's original location on the rental unit property in a safe manner and without further damaging the tenant's RV, including leveling of the RV, no later than October 31, 2013 at 1:00 p.m.

I ORDER the landlord to comply with section 29 of the *Act* regarding the entering of the rental unit, which includes the residential property of the rental unit.

I grant the tenant a monetary order of \$50.00 in full satisfaction of the recovery of his filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 07, 2013

Residential Tenancy Branch

