



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RPP

Introduction

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

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

The Tenant has withdrawn his application for the return of personal property because the items were disposed of and that the Landlord is not in possession of any of the items. As such, no further action is required for this portion of the claim.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

The Tenant states that on June 1, 2013 the Landlord attended the rental unit and removed all of the Tenant's personal belongings and put them into the garbage. This included clothing, electronics and everything else that the Tenant owned. The Tenant states that 45 items ranging from a LA Lakers Starter Jacket for \$250.00, a track suit for \$100.00, Givenchy Gift Set for \$120.00 to 1 set of pots and pans for \$50.00 totalling, \$6,165.00 were items that the Landlord took and threw out. The Tenant states that he was out and was told by his roommate that he assisted in throwing out the Tenant's items into the garbage dumpster which was later locked and was prevented from retrieving these items. The Tenant states that he did not contact the Landlord or request aid from the police.

The Landlord disputes the Tenant's claims stating that all of the Tenant's personal belongings were removed by the Tenant. The Landlord states that he waited until October of 2013 when the Tenant failed to return and pick up the remaining items to dispose of them.

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 find that as the claim is being challenged by the Landlord that the Tenant has failed to establish that the loss exists as it is the word of the Landlord vs. that of the Tenant. The Tenant is unable to provide sufficient evidence to satisfy me that the items were disposed of by the Landlord or of the actual amount required to compensate the Tenant for the disputed items. The Tenant states that the compensation amount is based upon him looking up similar items on the internet and that no replacement items were purchased. In these circumstances the Tenant's Application is dismissed.

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: December 13, 2013

Residential Tenancy Branch

