



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, RPP

Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and an order instructing the landlord to return the tenant's property. Both parties attended the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began early in January 2004. A previous hearing was held in a dispute between these parties on October 24, 2011. In the result, by way of decision dated October 25, 2011, an order of possession and a monetary order were issued in favour of the landlord. While the landlord attended that hearing, the tenant was not present.

During this present hearing, the tenant testified that the order of possession, as above, was served on November 15, 2011, and that the tenants vacated the unit on November 17, 2011. For her part, the landlord recalled that the date when the order of possession was served and the date when the tenants vacated the unit were both in October 2011.

In any event, the tenant claims that when she was in the process of vacating her unit, she found that her lock had been removed from her storage locker, and that the storage locker had been emptied of all her possessions. The tenant has assigned a value of \$2,500.00 to the missing possessions. While the tenant testified that she verbally took this matter to the landlord's attention on November 17, 2011, she made no formal written report of her alleged loss, and it was not until October 31, 2013 when she filed her application for dispute resolution. The landlord takes the position that the locker was emptied by the tenant, and that it was subsequently assigned to another resident.

Analysis

Section 60 of the Act speaks to **Latest time application for dispute resolution can be made**, in part as follows:

60(1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

In the absence of any conclusive evidence to the contrary, based on the testimony of the parties I find on a balance of probabilities that the tenancy ended November 17, 2011. Accordingly, I find that the tenant's application for dispute resolution filed on October 31, 2013 has been filed within the applicable statutory time limit.

Documentary evidence before me is limited to the tenant's application for dispute resolution, the notice of a dispute resolution hearing, and a letter from the tenant to the Branch dated November 2, 2013, in which the tenant provides an amended address for the landlord and confirms that she served the hearing package by registered mail. There is no inventory of the tenant's possessions, or a breakdown of the specific value of any of the possessions. Neither is there evidence of the age or condition of any of the possessions when tenancy ended. Further, there is no witness testimony, and no evidence of letters or affidavits or a police report in support of the tenant's claim.

In the result, I find that the tenant has failed to meet the burden of proving entitlement to compensation claimed or the order sought, and the application is therefore dismissed.

Conclusion

The tenant's application is hereby 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 12, 2013

Residential Tenancy Branch

