



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 convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for the Landlord to return the Tenant’s personal property and for a Monetary Order for money owed or compensation for loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement.

The Landlord and Tenant appeared for the hearing and provided affirmed testimony during the hearing. The Tenant served the Notice of Hearing documents along with his documentary evidence to the Landlord by registered mail which the Landlord confirmed receipt of. No other issues were raised by any of the parties in relation to the service of documents under the Act and the Rules of Procedure.

Although the Landlord did not provide any documentary evidence prior to the hearing the Landlord was allowed to submit the written tenancy agreement after the hearing in accordance with Rule 11.5 of the Rules of Procedure.

Issue(s) to be Decided

- Is the tenant entitled to the return of his personal property under the Act?
- Is the tenant entitled to monetary compensation for the loss of his personal property, aggravated damages and lost rent?

Background and Evidence

Both parties agreed that this month to month tenancy started on September 1, 2011. No security deposit was requested by the Landlord at the start of the tenancy. Both parties also agreed that the Landlord is not the owner of the property but sublets the basement suite to two Tenants who are in a common law relationship and rent the same rental suite under the same tenancy and they each share the rental payment.

The Tenant stated that on November 3, 2013 he got into to a fight with the Landlord and as a result, the Landlord kicked him out of his rental suite. The Tenant testified that he returned on a number of other occasions with his friends and brother where he was able to get a few items such as his bed and television.

However, when the Tenant returned on another occasion, the Tenant claims that the Landlord told him that his property had been sent to the dump. The Tenant now claims these items back and provided a handwritten list of items which he claims were dumped by the Landlord with their respective monetary values. The Tenant also claims loss of rent for 2 months because he paid for November, 2013 rent but was kicked out at the start of this month and also claims December, 2013 rent. The Tenant claims \$2,000.00 in aggravated damages based on other items the Tenant claims the Landlord dumped which had a lot of sentimental value such as poems, pictures and books.

The Landlord testified that on November 3, 2013 the Tenant started to beat him up because the Tenant thinks that the Landlord was 'messing' with his partner who is the Co-tenant. The Landlord testified that he called the police, for which he provided the name of the Constable attending, and before the police arrived the Tenant had left. The Landlord testified that the Tenant returned a number of times and on each occasion started to cause a disturbance with the Co-tenant, after which the police had to be called.

On one occasion the Landlord called the police to the disturbance and the police called the Tenant and advised him to pursue the matter through the Residential Tenancy Branch. The Landlord denied dumping any of the Tenant's property and submitted that this is a domestic dispute between the Tenant and the Co-Tenant. The Landlord explained the Tenant's Application to the Co-tenant and testified that the Co-tenant explained to him that she owns the property the Tenant is claiming for; the Co-tenant explained to the Landlord that the Tenant already took belongings which he owned and the remaining items belong to her and not the Tenant. The Landlord testified that the Co-tenant is still renting from him and the tenancy is still continuing at this time.

Analysis

Policy Guideline 13 to the Act provides for the definition of a Co-tenant being two or more Tenants who rent the same property under the same tenancy agreement. I accept the undisputed evidence of both parties that the Landlord and the two Tenants entered into a tenancy under one agreement.

The Policy Guideline goes on to say that Co-tenants are **jointly and severally liable** for any debts or damages relating to the tenancy. In relation to the Tenant's claim for the return of his personal property, I find that the Tenant has not provided sufficient evidence to show that the property belongs solely to him and that it was the Landlord that dumped it, as claimed by the Tenant. The Landlord submitted that the tenancy with the Co-tenant has not ended and is still in effect and that the property claimed by the Tenant is in the control and possession of the Co-tenant. In the absence of sufficient evidence provided by the Tenant to refute this, I dismiss the Tenant's Application for the return of his personal property and his claim for aggravated damages for the loss of the Tenant's sentimental items claimed.

The Tenant claims that he is owed rent by the landlord for November and December, 2013 because the Landlord kicked him out. The Landlord did not issue the Tenants with any notice to end the tenancy and the tenancy is still continuing under the Co-tenant who is jointly and severally liable. If the circumstances of a tenancy give rise to one Tenant vacating the tenancy without notice, the Landlord is under no obligation to return rent or partial rent as a result of that Tenant exiting the tenancy. As a result, I dismiss the Tenant's Application for monetary compensation for lost rent without leave to re-apply.

The Landlord submitted that the Tenant was trying to get him involved in a domestic dispute between the Co-tenants. I accept the Landlord's submission and the Tenant should seek legal advice on the correct legal remedies available to him, as the Act does not apply to disputes between Tenants.

Conclusion

For the above reasons, I dismiss the Tenants' application without leave to re-apply. 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: February 24, 2014

Residential Tenancy Branch

