



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

LRE

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have requested return of personal property that was left in the landlord's garage.

The tenant provided affirmed testimony that on May 2, 2014 copies of the Application for Dispute Resolution and Notice of Hearing and evidence were sent to the landlord by registered mail; sent to the landlord's residential address. A Canada Post tracking number and receipt was provided as evidence of service.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the landlord did not appear at the hearing.

Issue(s) to be Decided

Must the landlord be Ordered to return the tenant's personal property?

Background and Evidence

The tenancy commenced in April 2012. The tenancy ended effective April 28, 2014 as the result of an Order of possession issued to the landlord.

Throughout the tenancy the tenant had sole use of a garage, which was used for storage of personal property.

On April 28, 2014 the tenant removed items from the house. The tenant returned to the unit on April 29, 2014 to retrieve the property in the garage. The landlord had changed the code to the garage door lock. The landlord was present and called the police, who told the tenant to leave the property. The tenant had also wanted to access recycling bags, as there was recycling he had left at the front of the property.

The tenant said he left items in the garage, such as:

- 2 bikes;
- 2 scooters;
- Motorcycle parts;
- Tools;
- Booster cables;
- Polishing equipment;;
- Oscillator;

- Tires, rim, fender for motorcycle;
- Dresser;
- Shelves;
- Clothing;
- Stereo; and
- Little red riding car.

This was not an exhaustive list.

Analysis

In the absence of evidence to the contrary, I find that the landlord has not allowed the tenant to retrieve his property from the garage. Despite any other issues that may have existed with the tenancy; the landlord does not have the right to retain any property left by the tenant; particularly when the tenant attempted to retrieve that property on the day after he vacated.

Residential Tenancy Regulation determines when personal property can be considered as abandoned. I find, from the evidence before me, that the tenant did not abandon his personal property. The tenant had not given the landlord any notice of his intention not to return to the property and he did return the day after vacating, in an attempt to retrieve the property. Intervention by the police does not override the landlord's obligation set out in the Regulation; that the property had not been abandoned.

Section 65(1)(e) of the Act provides:

(e) that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned

Therefore, I Order, pursuant to section 65(1)(e) and 62(3) that the landlord must immediately return the tenant's personal property.

Conclusion

The landlord is Ordered to return the tenant's personal property.

This decision is final and binding, 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: June 19, 2014

Residential Tenancy Branch

