



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened as a result of the tenant's application 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.

The parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence. The tenant confirmed not filing documentary evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-The person attending representing the respondent/landlord submitted that the tenant had incorrectly listed the respondent in his application. The respondent said that the name used by the tenant was actually a combination of his, the respondent's, given name and the first name of the apartment building. The attending respondent agreed that the tenant's application could be amended to correct the name of the landlord, rather than dismiss the tenant's application with leave. As a result, I have amended the tenant's application to reflect the name of the landlord, as shown by the landlord's documentary evidence.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation?

Background and Evidence

The tenant testified that this tenancy began in 2012, ended in September 2013, and that monthly rent was \$745.

In support of his application, the tenant submitted that after he was arrested on September 11, 2013, the landlord and the maintenance person attended the rental unit, kicked out his roommates, and changed the locks. The tenant submitted further that the landlord had verbally accepted one of his roommates as a tenant, and that the other roommate had been a tenant of the landlord living in another rental unit.

The tenant claimed that the landlord disposed of his personal property and that he is entitled to the value of the discarded items, for a total monetary claim of \$5200. The tenant submitted a listing of the items. The tenant also claimed that he is entitled to "remainder of rent" for \$372.50 and his security deposit of \$372.50.

The tenant confirmed that after he was released from prison on October 8, 2013, following his arrest, he has not made contact with the landlord or attempted to collect his personal property. The tenant submitted further that he did try 3-4 months ago to call the landlord, but the landlord did not answer the phone.

In response, the landlord submitted that he did not know the tenant was arrested, and just saw people coming and going from the rental unit, with items of personal property. The landlord submitted further that he informed these people to leave the rental unit, and they refused, at which point the landlord called the police.

The submitted further that the tenant's brother contacted him and retrieved the tenant's electronics, but that he has never been contacted by the tenant or family member about any other personal property.

The landlord submitted that he placed the remainder of the tenant's personal property in storage until January 2014, prior to disposing of the property, even after written notification to the tenant, on October 5, 2013. The landlord supplied a copy of the letter.

Analysis

Under section 24 of the Residential Tenancy Regulation, a landlord may consider personal property abandoned if the tenant leaves the personal property after they have vacated or has not lived there for a continuous period of 1 month. I find that to be the case here, as the tenant, after his arrest, never returned to the rental unit.

Under section 25, a landlord is obligated to store the abandoned personal property for 60 days, and may dispose of the property if the landlord believes the property has no value over \$500.

In this case, I find the landlord met their obligation to store the personal property for 60 days, and as the tenant has not presented evidence to substantiate the value was over \$500 or that his roommates did not take the property, I find the landlord was entitled to dispose of the tenant's remaining personal property in the manner they chose.

I also relied upon the fact the tenant failed to comply with section 7(2) of the Act by taking reasonable steps to minimize his loss, as he never made contact with the landlord prior to filing his application for dispute resolution in June 2014, in an effort to collect his personal property.

I therefore dismiss the tenant's claim for the value of his personal property.

As to the tenant's claim for the remainder of the rent of \$372.50, I find the tenant provided no explanation as to how he would be entitled to any rent return or even as to which month the tenant referred. I dismiss this claim, due to the tenant's insufficient evidence.

As to the tenant's claim for a return of his security deposit, as the tenant has not provided the landlord with a written forwarding address within 1 year of the end of the tenancy, which occurred on September 11, 2013, I find the landlord is entitled to retain the tenant's security deposit, pursuant to section 39 of the Act. I therefore dismiss the tenant's claim for \$372.50.

Conclusion

As I have dismissed the entirety of the tenant's monetary claim, I dismiss the tenant's application, without leave to reapply.

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: October 10, 2014