



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: RPP

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) That the landlord return personal property pursuant to section 65(1)(e)

Service:

The tenant /applicant gave evidence that she served the Application for Dispute Resolution by registered mail (xpresspost) and the landlord agreed he received it. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has denied access to their personal property and will not return it contrary to section 65(1)(e) of the Act?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in March 2013, rent was \$700 a month and a security deposit of \$350 was paid. The tenant said that the landlord had issued a Notice to End Tenancy for unpaid rent and she was complying with it in February 2015. However, before she could remove all of her belongings, the landlord changed the locks while she was at school. She did not deny that she owed money to the landlord.

When the landlord joined the conference, he immediately said to the tenant that her property was all gone now. He had held it for 30 days and then got rid of it. He said that the tenant and her boyfriend had changed their telephone numbers but they knew his telephone number and could have called him to retrieve their property. He said they play games. The tenant said the landlord was demanding payment before he would release their property. She said he kept her security deposit also without permission.

She said the landlord knew where they were living now and brought over some items but many were not released.

No documentary evidence was included and the tenant had not asked for any compensation on her Application.

Analysis:

I find the tenant satisfied the onus of proving that the landlord had retained her personal property as the landlord admitted it in the hearing. However, as pointed out to the parties in the hearing, I cannot order its return as the landlord stated he had gotten rid of it after 30 days.

I find there is no obligation in the Act for the landlord to personally deliver the tenants' property to them after they vacate. However, the weight of the evidence is that the landlord changed the locks contrary to section 31 of the Act after serving a Notice to End Tenancy and without obtaining an Order of Possession according to the Act. Furthermore, he provided insufficient evidence that he dealt with the tenants' property according to sections 24 to 26 of the Residential Tenancy Regulation. As the tenant requested no compensation on her Application and submitted no information as to the value of the property involved, no compensation is awarded but I give her leave to reapply.

I find also insufficient evidence that the landlord has dealt with the security deposit according to section 38 of the Act. In the hearing, I advised the parties to consult the relevant sections and act accordingly.

Conclusion:

I dismiss this Application of the tenant and give her 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: April 14, 2015

Residential Tenancy Branch

