



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RPP, OPT

Introduction

This matter dealt with an application by the Tenants for compensation from the Landlord for loss or damage under the Act, regulation or tenancy agreement, for the return of personal property and for an Order of Possession for the rental unit.

The Tenant said she requested the Police to serve the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery on April 17, 2015. The Tenant said she confirmed deliver of the hearing package to the Landlord with the Police. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded in the absences of the Landlord.

During the hearing the Tenant said they have moved out of the rental unit and do not want to move back in so they are withdrawing their application for an Order of Possession for the rental unit.

Issues(s) to be Decided

1. Are the Tenants entitled to compensation for loss or damage under the Act, regulations or tenancy agreement?
2. Are the Tenants entitled to an Order for the return of their personal property?

Background and Evidence

This tenancy started on February 1, 2015 as a month to month tenancy. Rent is \$900.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$450.00 at the start of the tenancy. No move in or move out condition inspection reports were completed during the tenancy.

The Tenant said the Landlord gave them a 10 Day Notice to End Tenancy on March 13, 2015 with the reason to end the tenancy as the Tenants were too loud. The Tenant said they had paid the March 2015 rent so they were confused if the Notice to End Tenancy was valid or not. The Tenant continued to say the tenancy continued in a calm

manner until April 16, 2015 when the Landlord locked the Tenants out of the rental unit and put all their belongings outside on the driveway and in the yard. The Tenant said they called the Police and the Tenant said they were told this is a Residential Tenancy matter. As a result the Tenant said they went to a friend's home that night and now they are living in a hotel. Consequently the Tenant said they are requesting an Order so that they can retrieve their belonging. The Tenant requested the Order for Sunday, May 9, 2015 between the hours of 1pm and 5pm as she works the other days of the week.

Further the Tenant said they are requesting \$2,000.00 in compensation from the Landlord for damage to their property and for the wrongful eviction. The Tenant said that she did not submit any evidence to support her application as she does not have her belongs and she was not sure where the Notice to End Tenancy was.

The Tenants' application includes the application and the Notice of Hearing. There is no additional information or documentation.

Analysis

Section 65 (1) e of the Act says that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned;

I accept the Tenant's testimony that the Landlord removed their belongings from the rental unit contrary to the Act. Consequently, I grant an order to the Tenants to attend the property on Sunday May 9, 2015 between the time of 1:00 p.m. and 5:00 p.m. to recover all of the Tenants' belonging. An Order has been issued for the Tenants to serve on the Landlord.

As well the Tenants' are at leave to make an additional application for compensation for damage or loss under the Act, regulations or tenancy agreement if the Tenants find there is damage or loss to their property. The Tenants are responsible to submit supporting evidence for any claims they are making.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

As the Tenants have not provided any evidence to support their monetary claim of \$2,000.00 I dismiss the claim with leave to reapply due to lack of evidence.

Conclusion

An Order has been issued for the Tenants to attend the property to recover their personal property. This Order is for Sunday, May 9, 2015 between the times of 1:00 p.m. and 5:00 p.m.

The Tenants' monetary claim is dismissed with leave to reapply due to lack of evidence.

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: May 06, 2015

Residential Tenancy Branch

