



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RPP

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking return of his personal possessions and a monetary order.

The first hearing was conducted via teleconference and was attended by the tenant; his advocate; his agent/witness; the landlord; his spouse; and their legal counsel. The second hearing was conducted by teleconference and was attended by the tenant; his advocate; his agent/witness; the landlord; his legal counsel and a witness. The landlord had arranged for 2 witnesses however only one witness was called to provide testimony.

As a result of the first hearing I issued an interim decision ordering the parties to ensure the tenant's personal belongings were returned to the tenant. That hearing was adjourned so the parties could deal with the return of the tenant's personal belongings and the issues related to the tenant's monetary claim would be dealt with at the second hearing.

At the outset of the hearing the tenant's agent clarified that although his original claim was for \$5,000.00 and it was based, at least in part, on the landlord's failure to allow the return of his personal property. The tenant's agent submits that as a result of the return of the items he would reduce his claim.

In order to establish the value of his claim the tenant's agent identified that a part of his claim was for the landlord's failure to pay the tenant wages for work that was over and above the work that he did for the landlord in relation to the consideration given for rent. As such, I determined that the wages issue was not related to the tenancy but rather a contract outside of the bounds of the tenancy agreement. I therefore declined jurisdiction on the matter of wages.

The tenant's monetary claim was therefore reduced to compensation for the loss of transfer papers for a jeep; a pellet gun; and a Coleman lamp.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order requiring the landlord to return his personal possessions and to a monetary order for compensation for damages or losses suffered as a result of the tenancy, pursuant to Sections 26, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy originally began in the spring of 2013 on a month to month basis and that rent would be waived in lieu of compensation for being a caretaker of the property. The landlord submits that the original agreement was that the tenant would pay \$50.00 per month towards utilities. The tenant submits that this agreement was made after the original agreement was entered into. No written agreement was made. The parties agree the tenancy ended at the end of April 2015. (copied from Interim Decision).

The tenant's agent submits that when they retrieved his possessions the trailer where most of the tenant's possessions were stored appeared to have been ransacked. The agent noted that while there were other documents and papers still in the trailer the transfer papers for the tenant's jeep were not found anywhere.

The agent submits that as a result the tenant cannot have the jeep registered in his name. He states also that the original owner of the jeep is out of the country and they do not know how to reach him, so they cannot register the vehicle.

The tenant's agent also submits the tenant had left, in the trailer, a pellet gun valued at \$126.00 and a Coleman lamp that he could not provide a value for. The landlord and his witness both denied any knowledge of what had happened to any of the missing items.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Part 5 of the Residential Tenancy Regulation lay out the requirements of both parties when dealing with a tenant's abandoned personal property. Section 25 of the Regulation requires the landlord to store the tenant's personal property in a safe place. As such, I find the landlord has an obligation to ensure that the tenant's personal property is secured until such time as it is returned to the tenant or disposed of in other manners allowed by the regulation.

I find, in relation to the claim for compensation for the pellet gun and the lamp, that the landlord has failed to fulfil this obligation and the tenant is entitled to some compensation for the loss of these items. However, as the tenant has failed to provide any evidence to establish the value of these two items I find the tenant is entitled to only a nominal amount for his losses. I grant the tenant \$50.00 for these items.

As to the loss of the transfer papers, I find that there is no value in the papers themselves. Further, I find the tenant was responsible to ensure the proper transfer of the vehicle when he first obtained it, prior to the end of the tenancy. Had he done so, the vehicle would have been registered in his name prior to the end of the tenancy and he would be able to obtain a new copy of the registration. I find the tenant's failure to complete that transaction is not a result of any action taken or neglect of his obligations on the part of the landlord. I dismiss this portion of the tenant's claim.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00**. This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: July 23, 2015

Residential Tenancy Branch

