



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, PSF, RPP, O

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order for the landlord to provide services or facilities required by law, for an Order for the landlord to return the tenant's personal belongings; and other issues.

The tenant and one of the landlords attended the conference call hearing and gave sworn testimony. The landlords provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant disputed having received the landlords' evidence package and testified he had not provided the landlord with a forwarding address so the landlord did not know where to send their evidence. The parties did not raise any issues to the landlords' evidence being considered for this hearing. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss under the *Act*?
- Is the tenant entitled to an Order for the landlord to provide services or facilities required by law?
- Is the tenant entitled to an Order for the landlord to return the tenant's personal belongings?

Background and Evidence

The parties agreed that this month to month tenancy started on July 01, 2012. Rent for this unit was \$800.00 per month due on the 1st of each month in advance. The tenant testified that he was forced out of the unit by the landlord TE on August 10, 2015 and has not returned to the rental unit. The landlord SE testified that the tenant was still seen on the manufactured home park site up to September 04, 2015.

The tenant testified that on July 28, 2015 the male landlord TE asked the tenant to vacate the rental unit. The tenant testified that he did not take the landlord seriously as the landlord had asked the tenant a couple of times to vacate as the tenant was no longer working for the landlord. On July 29, 2015 the landlord approached the tenant again and said he did not want the tenant on the property as the landlord had seen the tenant carrying a propane tank and it looked like the tenant was a thief. The tenant testified that he told the landlord he would be happy to move at the end of August.

The tenant testified that on August 05, 2015 the landlord stopped the tenant when he was on his way to work and asked when the tenant was going to pay rent for August. The tenant responded that he did not know as there were repairs required in his unit. On August 08, 2015 the landlord went into the tenant's unit when he was at work and started to remove all the tenant's belongings and threw them in a trailer and had said he would help the tenant to move out. The landlord took all the contents of the tenant's fridge and threw these, which included pails of raspberries, on top of the tenant's clothes. A friend called the tenant at work and said he needed to get home as the landlord was clearing out his unit.

The tenant testified that he called 911 and the police went to the unit and stopped the landlord removing the tenant's belongings. The next morning two of the landlord's workers arrived at the unit and kicked open the door. One of these workers threw coffee in the tenant's face and they proceeded to remove the tenant's belongings. The tenant called 911 again and the police arrived. After the police left the landlord assaulted the

tenant and the tenant had to call the police again. The police warned the landlord that this matter had to be dealt with through arbitration.

The tenant testified that on August 09, 2015 he found all his belongings and the trailer were gone. The tenant seeks to recover \$5,000.00 for the cost of his belongings although testified that this amount does not even come close to the value of his belongings.

The tenant had sought an Order for the landlord to provide services or facilities required by law. The tenant withdrew this section of his claim at the hearing as he no longer resides in the rental unit.

The tenant seeks an Order for the landlord to return his personal property and if any is damaged the tenant should be compensated for that. The tenant testified that he should also be compensated the equivalent of two months' rent as the landlord threw the tenant out without notice and bullied the tenant into leaving.

The landlord attending SE testified that her husband TE had fully informed her of what was going on between her husband and the tenant. The tenant had informed the landlord that he had found a new place to live and would be moving out at the end of July. The tenant never moved out and as the tenant had failed to pay rent and had been accused of stealing propane from a local business and other police business; the landlords had wanted the tenant to leave the unit. The landlords had offered the tenant the use of a trailer to move his belongings and the tenant had made an arrangement with the landlord's handyman to help the tenant load the trailer. The landlords had agreed to move the trailer to the tenant's new unit but the tenant refused to give the landlords his forwarding address.

The landlord testified that the trailer containing the tenant's belongings is still locked in the landlords' compound. The tenant was told this and had agreed to it. The tenant had helped pack the trailer with his belongings. The landlord testified that she had witnessed

the tenant and their handyman putting stuff in the trailer but believes this was the last week of August. The tenant never approached the landlords about the return of his belongings and the landlords had no address or telephone number for the tenant to contact him.

The tenant testified that there was no agreement made about packing his belongings. He had returned home from work to see the landlord throwing his belongings into the trailer. The tenant agreed there was a period of about half an hour in which he helped the landlord because he finds the landlord TE very intimidating. The tenant testified that he walked away and called the police. The tenant did not want the landlord TE to know his address as he was scared of him and testified that he did not know the landlords had kept his belongings. The tenant testified that he had stopped by the park on August 28, 2015 with a truck to get his belongings and the landlord TE told the tenant he did not have a key to the trailer. The tenant testified that TE let some of his workers take some of his belongings and one worker has some belongings in the back of his vehicle.

The tenant asked the landlord is some of his belongings are in the back of K's truck and does J have a gun that belongs to the tenant. The landlord responded that as far as she knows no one has any of the tenant's belongings. Some things are still in the unit and some things are in the trailer. None of the landlord's employees would know where to go to take anything and the unit has been left as it was when the tenant vacated. The landlord referred to photographs provided in evidence showing the tenant's belongings in the unit.

The tenant testified that there is video footage taken by a neighbouring tenant but he did not want to provide it in case he was evicted by the landlord.

The landlord asked the tenant if he said he had not been back on the property yet he has seen video footage from a surveillance camera on the property. The tenant responded that he did not go back to his site just to his friend's unit.

The landlord testified that all the tenant's belongings are on site. The tenant is able to collect them or the landlords are still willing to deliver the trailer to the tenant's new home.

The parties agreed at the hearing that the landlord will deliver the tenant's belongings stored in the trailer on September 17, 2015 at noon. The tenant agreed he would be available to accept delivery of his belongings in the trailer. The parties also agreed the tenant will return to the rental unit between 2.00 p.m. and 4.00 p.m. on the same date to retrieve his belongings from the unit.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. The parties have agreed that the landlord will deliver the tenant's belongings stored in the landlords' trailer to the tenant at his new unit and agreed the tenant can return to the rental unit to retrieve the remainder of his belongings on September 17, 2015. I therefore find no Order is required for the landlord to return the tenant's personal belongings.

With regard to the tenant's claim for compensation for the loss of his personal belongings; as the landlord has stored the tenant's belongings since the tenant moved from the unit, and the tenant has not yet had access to his belongings to assess any damage; I am not prepared to issue a Monetary Order for compensation for his belongings. If; however, the tenant finds any of his belongings are missing or damaged; the tenant is at liberty to file a new application for monetary compensation for damage to his personal belongings. This section of the tenant's claim is dismissed with leave to reapply.

There is insufficient corroborating evidence from the tenant to determine whether or not an agreement was in place between the tenant and the landlord concerning the tenant vacating the rental unit. In this matter the tenant has the burden of proof to show the landlord did evict the tenant without notice or an Order of Possession or that no agreement had been made between them. In the absence of corroborating evidence it

is simply one person's word against that of the other and therefore the burden of proof has not been met. Any claim for compensation for the unlawful eviction of the tenant is therefore dismissed without leave to reapply.

Conclusion

The parties must abide by the agreement made at the hearing concerning the delivery and collection of the tenant's belongings. Therefore no Orders have been made concerning this matter.

The tenant is at liberty to reapply for compensation if any belongings are missing or damaged.

The reminder of the tenant's claim is dismissed 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: September 17, 2015

Residential Tenancy Branch

