



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of person property - Section 65; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlord did not attend the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord required to return the Tenant’s property?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started in June 2012 and ended on May 1, 2015. Rent of \$864.00 was payable on the first day of each month and rent was paid for May 2015. No security deposit was collected by the Landlord. It is noted that the Landlord is the daughter of the Tenant.

The tenancy ended unexpectedly when the Tenant remained at a relative’s home while visiting that relative. The Tenant remained at this home after the Landlord had told the

Tenant to come and get her belongings. Since making the application the Tenant has been provided with most of her belongings that were in the unit however some remain outstanding and the Landlord refuses to return the items or allow the Tenant to retrieve them. The Tenant seeks an order for the return of the following:

- 1 kitchen table;
- 1 bedroom suite comprised of a bedframe, headboard, queen size mattress and box spring, a dresser and 2 side tables;
- 2 bedroom dressers;
- 1 linen and medicine cupboard approximately 2.5 feet by 9 feet;
- 2 pen and ink drawings of children;
- An unknown number of small black and white photos including several photo albums;
- 1 masonic watch and 2 masonic rings;
- 1 red reclining chair;
- 2 hand painted bracelets;
- 1 leather attaché case with legal documents such as birth certificates;
- 1 head sculpture; and
- An unknown number of knitting patterns.

Analysis

Section 65 of the Act provides that a party may obtain an order that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned. Based on the undisputed evidence that the Landlord is refusing to return or to make available for pick up, the personal belongings of the Tenant I find that the Landlord has in effect seized the belongings contrary to the Act. I therefore order the Landlord to return the items set out above to the Tenant at the Tenant's address as set out in the Tenant's application no later than 1:00 p.m. on October 31, 2016.

Should the Landlord fail to return the items as ordered the Tenant has leave to reapply for compensation.

As the Tenant's application has met with success I find that the Tenant is entitled to recovery of the \$100.00 filing fee.

Conclusion

I order the Landlord to return the personal property of the Tenant as set out above no later than 1:00 p.m. on October 31, 2016.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and 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: October 05, 2016

Residential Tenancy Branch