



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

The Application for Dispute Resolution filed by the Tenant seeks a monetary order in the sum of \$3745.

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the respondent by mailing, by registered mail to where the respondent carries on business on February 6, 2017. A search of the Canada Post tracking service indicates it was picked up by the respondent on February 20, 2017.

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to a monetary order for the loss of her belongings and if so how much?

Background and Evidence

The tenancy began on March 15, 2014. The rent was \$875 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$437.50 at the start of the tenancy.

The tenancy ended on January 16, 2017. The landlord changed the locks thus preventing the tenant from retrieving all of her belongings. The tenant filed an application to cancel the one month Notice to End Tenancy and the 10 day Notice to End Tenancy. A hearing was held on January 18, 2017. By that time the tenant had found alternative accommodation thus rendering her application moot. During the hearing an agreement was made between the parties for the landlord to open the doors and for the tenant to pick up her belongings. The tenant testified that when she arrived to pick up her belongings she discovered the landlord had disposed of them. They were broken and in a dumpster.

The tenant relies on photographs of her broken belongings and photocopies of on-line catalogues showing the prices of comparable goods.

Analysis

I determined the landlord breached the rights of the tenant in disposing of the tenant's belongings and that the tenant is entitled to compensation. I determined the tenant is entitled to recover compensation for the items lost after considering depreciation. The tenant is not entitled to a replacement cost as this does not compensate her for her actual loss.

With respect to each of the Tenant's claims I find as follows:

- a. The tenant claimed \$699 for the cost of replacing a twin bed box spring and mattress based on an on-line catalogue. The item was purchased new 3 or 4 years ago. I determined the tenant is entitled to \$350 of this claim after depreciation is considered.
- b. The tenant claimed \$129 for the cost of a computer desk that was purchased new approximately one year ago. I determined the tenant is entitled to \$100 of this claim.
- c. The tenant claimed \$199 for the cost of an IKEA 4 drawer dresser. She testified purchased it 2nd hand 3 years ago for \$75. I determined the tenant is entitled to \$75 for this item.
- d. The tenant claimed \$156 for the cost of a 2 drawer filing cabinet. That was purchased 5 years ago. She estimated she could purchase a comparable 2nd hand for \$60. I determined the tenant is entitled to \$60 for this claim.
- e. The tenant claimed \$107 for a microwave cart. She estimated she could obtain a comparable cart 2nd hand for \$50. I determined the tenant is entitled to \$50 for this claim.
- f. The tenant claimed \$398 for the cost of patio furniture set purchased 5 or 6 years ago. The tenant estimated she could purchase a comparable set 2nd hand set for \$150 to \$200. I determined the tenant is entitled to \$175 for this item.
- g. The tenant claimed \$379 for the cost of a rocking chair with ottoman. She estimated she could purchase a comparable unit 2nd hand set for \$100. I determined the tenant is entitled to \$100 for this claim.
- h. The tenant claimed \$229 for a Panasonic 3 piece stereo system. It was 8 years old. I determined the tenant is entitled to \$75 for this claim.
- i. The tenant claimed \$189 for a water cooler. The water cooler was 3 years old. She was not able to estimate the cost of a 2nd water cooler as very few are sold.

After considering depreciation I determined the tenant is entitled to \$50 for this claim.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$1035 in satisfaction of this claim.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on the parties.

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 31, 2017

Residential Tenancy Branch