



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of hearing package and the submitted documentary evidence. Neither party raised any issues with service. As both parties have attended and confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am sufficiently satisfied that both parties have been properly served as per section 90 of the Act.

Preliminary Issue(s)

At the outset it was clarified with both parties that the tenant had revised her monetary claim lowering it from \$1,952.41 to \$1,447.89.

During discussions with both parties it was also clarified that; the recovery of a filing fee having been addressed in a decision of another dispute resolution hearing cannot be re-addressed in this hearing; the recovery of gas, parking and time in litigating this application for dispute are not recoverable pursuant to section 72 of the Act which allows for repayment of fees for starting dispute resolution proceedings and charged by the Residential Tenancy Branch. While provisions regarding costs are provided for in

court proceedings, they are specifically not included in the Act. These portions of the tenant's claims are dismissed without leave to reapply.

It was also noted with both parties that the tenant included as part of her claims compensation for a "helmet and chaps" which were not mentioned in the original decision or order of August 9, 2017. As such, this portion of the application is dismissed.

The hearing proceeded on the tenant's remaining items of claim for the lawnmower (\$300.00) and the chainsaw (\$279.95) for a total of \$579.95.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation for the landlord failing to return the tenant's personal property and recovery of the filing fee?

Background, Evidence, Analysis and Conclusion

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant seeks a revised monetary claim for \$1,447.89 which consists of:

\$300.00	Value of Lawnmower
\$279.95	Value of a chainsaw
\$100.00	Recovery of Filing Fee

However, during the hearing discussions took place with both parties as to the circumstances of returning the above two listed items. The tenant claims that the landlord failed to return the listed items by August 31, 2017 as per the decision and order dated August 9, 2017. The landlord's agent claims that the items were ready for the tenant to pick up, but that the tenant instead chose to file an application for monetary compensation for the two items. Both parties confirmed that nothing was done subsequently for the return of the two items pending this hearing.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to meet at 4:00pm on April 20, 2018 at the Mac's Convenience Store located at the intersection of 80th and King George in Surrey, BC, to allow the landlord to return the lawnmower and chainsaw to the tenant..

Both parties also agreed that the landlord shall prepare a receipt for the tenant to sign for the return of the above items listed.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

As a settlement has been reached, I decline to make any orders regarding the tenant's recovery of the filing fee.

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: April 20, 2018

Residential Tenancy Branch