



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, MNDCT, FFT

Introduction

This hearing was scheduled in response to the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- a monetary order for damage or compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. At the outset of the hearing, the landlord confirmed receipt of the tenant's application.

Both parties denied receipt of the other parties' evidence. The tenant acknowledged he was unsuccessful in serving his evidence personally to the landlord and the landlord acknowledged he did not attempt to serve his evidence to the tenant. In any event, the limited evidence provided to the Residential Tenancy Branch by either party, was not relevant to my findings and was therefore not considered.

Preliminary Issue – Settlement

During the hearing the tenant and landlord agreed the tenant could recover his personal property.

Section 63 of the *Act* provides that if the parties settle their dispute during a hearing the Director may record the settlement in the form of a Decision or an Order. Pursuant to the above provision, discussion between the parties during the hearing led to a settlement / resolution. Specifically, the parties agreed and confirmed as follows;

1. the tenant and landlord agree that the landlord will ensure the tenant has access to retrieve his boat and possessions located in the boat on Saturday January 12, 2019 between the hours of 9:00 a.m. and 5:00 p.m.

So as to perfect this settlement agreement, I order the landlord to allow the tenant access to retrieve the tenant's boat and possessions located in the boat on Saturday January 12, 2019 between the hours of 9:00 a.m. and 5:00 p.m.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for damage or compensation under the *Act, Regulation* or tenancy agreement?

Is the tenant authorized to recover the filing fee for this application from the landlord?

Background and Evidence

As per the testimony of the parties, the tenancy began on January 1, 2018 on a month-to-month basis. Rent in the amount of \$1,200.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$600.00 at the start of the tenancy, which the landlord still retains in trust. The tenant vacated the rental unit pursuant to an order of possession.

The tenant seeks \$5,000.00 in lost wages. He submitted that he had to miss two days of work to serve paperwork and attend this hearing.

Analysis

I dismiss the tenant's claim of \$5,000.00 for lost wages in preparation for this hearing process, as the only hearing-related costs recoverable under section 72 of the *Act* are for filing fees.

As the parties settled a portion of the dispute and the tenant's monetary claim has been dismissed, I find the tenant is not entitled to recover the filing fee in the amount of \$100.00.

Conclusion

I order the landlord to allow the tenant access to retrieve the tenant's boat and possessions located in the boat on Saturday January 12, 2019 between the hours of 9:00 a.m. and 5:00 p.m.

The tenant's remaining claims are 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: January 04, 2019

Residential Tenancy Branch