



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, FFT

Introduction

On June 10, 2019, the Tenants applied for a Dispute Resolution proceeding seeking a return of their personal property pursuant to Section 65 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On June 24, 2019, the Tenants amended their Application to update the last name of the second Tenant.

S.C and M.L. attended the hearing as advocates for the Tenants. A.B. attended the hearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

S.C. advised that she served the Notice of Hearing package to the Landlord by posting it to the Landlord’s door about “two to three weeks ago” but she is not sure of the specific date. As well, she stated that she served the Landlord the Amendment with the Notice of Hearing package. A.B. advised that the Landlord received the Notice of Hearing package on June 24, 2019 in his mailbox, but the Amendment was not received. While I am not satisfied that the Landlord was served the Notice of Hearing package in accordance with Sections 89 and 90 of the *Act*, as the Landlord received this package and was aware of the case against him, I am satisfied that the hearing could continue.

When S.C. was asked if she served the Tenants’ evidence to the Landlord, she advised that this was never served to the Landlord. As such, I have excluded the Tenants’ evidence and will not consider it when rendering this decision. However, the advocates for the Tenants were allowed to provide testimony with respect to this evidence during the hearing.

A.B. advised that the Landlord did not submit any evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Tenants entitled to a return of their personal property?
- Are the Tenants entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

A.B. advised that the Tenants rented the basement suite and this tenancy with the two Tenants started approximately two years ago, but there was no written tenancy agreement. He stated that rent was \$950.00 per month and that each Tenant paid \$475.00 per month, due on the first day of each month. He submitted that a security deposit of \$350.00 was paid. However, he did not have any evidence to prove these claims.

S.C. confirmed that Tenant S.P. lived there for “at least a year” but she said Tenant P.C. paid \$1,200.00 per month for rent, which was due on the first day of each month. She advised that a \$600.00 security deposit was paid. She stated that she knows this information as he told her this, that she is “really close with him”, and that she helps keep track of his money. However, she did not have any evidence to prove these claims.

S.C. stated that Tenant P.C. returned to the rental unit sometime in May 2019, before May 30, 2019, and the locks to the rental unit were changed. She stated that he had pre-paid rent for June 2019 but there was no proof of this. She does not know what property was specifically taken by the Landlord, but she suggested that amongst

appliances and other general living items, there was much personal property including photographs.

A.B. advised that they served the Tenants with a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit in December 2018, but he only had the first page of this Notice in front of him, so he was not able to speak to the reason the Landlord checked off on the second page of the Notice. However, the reasons he stated the Notice was served were not reasons that matched the purpose of the Notice. He submitted that Tenant P.C. vacated the rental unit at the end of April 2019 and that Tenant S.P. needed more time and vacated the rental unit around mid to late May 2019. He stated that the Landlord never received the keys back but took over the rental unit on June 1, 2019 and changed the locks. He advised that someone had already piled boxes of property outside the rental unit, so the Landlord stored these items. He stated that they were in possession of 24 items and Tenant P.C. never asked for a return of this property. He listed some of this property as follows: a two-piece sofa, a small fridge, three outdated TVs, a washer and dryer, some small appliances, a tool set, and a wheelchair.

S.C. advised that she could get a ride to the rental unit to collect this property on August 17, 2019 after 6:00 PM and A.B. advised that the Landlord would be available at that time as well to allow her to pick up the Tenants' property.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to S.C.'s claim for a return of the Tenants' personal property, the undisputed testimony is that S.C. wants the Tenants' personal property back and that the Landlord wants to return it. Consequently, I engaged with the parties about how best to have the Tenants' property returned to them. The parties agreed that they would meet at the rental unit on August 17, 2019 after 6:00 PM to arrange for the Tenants' property to be retrieved. While there may be some dispute over the contents that were left behind, S.C. did not provide any documentary evidence to substantiate the items that she claimed were in the Tenants' possession.

Ultimately, based on these conversations, I Order that the parties meet on **August 17, 2019 at 6:00 PM** so that S.C. can retrieve the property that the Landlord is storing for

the Tenants. Alternately, should the parties not be able to meet at this time, I Order that the Landlord return the Tenants' property by August 31, 2019 at the latest.

As the Tenants were successful in this Application, I allow the Tenants to recover the filing fee for this Application.

Conclusion

Based on my findings above, I Order that the parties meet on **August 17, 2019 at 6:00 PM** so that the Tenants can retrieve their property. Otherwise, should the parties not be able to meet at this time, I Order that the Landlord return the Tenants' property by August 31, 2019 at the latest.

The Tenants are provided with a Monetary Order in the amount of **\$100.00** in the above terms, and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: August 12, 2019

Residential Tenancy Branch