



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP FF

Introduction

This hearing dealt with 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;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord did not attend this hearing, although I waited until 10:00 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The tenant testified that on July 16, 2019, she sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by registered mail. A registered mail receipt and tracking number was provided in support of service.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Should the landlord be ordered to return the tenant's personal property?

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

Background and Evidence

The tenancy began on February 1, 2018 and ended on June 30, 2019. The rental unit is a basement suite and the landlord resides in the upstairs portion of the home.

The tenant is seeking an order for the landlord to return her personal possessions left behind at the rental unit. The tenant submitted a list of items left behind in the rental unit. The tenant testified that this list is just comprised of the things that she could remember. The tenant testified that the landlord had obtained an order of possession which required tenants to vacate the rental unit by 1:00 p.m. on June 30, 2019. The tenant testified that at 12:45 p.m. the landlord came downstairs escorted by a RCMP officer and demanded the keys and possession of the suite. The tenant testified that they were permitted time to load their truck but were forced to return the keys before coming back for the remaining items. The tenant submits that the landlord advised they could return for the rest of the belongings but would have to pay first. The tenant testified that she returned the keys and were escorted out by the RCMP officer.

The tenant testified that the landlord never called them after they moved out. The tenant testified that she did not attempt to contact the landlord either as she didn't know how to get a hold of the landlord. The tenant testified that in the past the landlord never answered his phone and would just let it go to voicemail. The tenant testified that she felt the landlord would not return her call. The tenant testified that she drove by the house a few times, but it appeared the landlord was no longer living there.

Analysis

Section 65(1)e of the Act authorizes the Director to order a landlord to return personal property seized contrary to the Act.

I accept the tenant's undisputed testimony and find that the tenant left some personal belongings behind at the time of vacating the rental unit. As per section 65(1)e of the Act, I order the landlord to allow the tenants immediate access to the rental unit to obtain all their personal possessions. I make no finding on what items, if any, may have been left behind or the value of these items.

As the tenants made no attempts to contact the landlord prior to filing this application, I find that the tenants are not entitled to recover the filing fee paid for this application.

Conclusion

I order the landlord to allow the tenants immediate access to the rental unit to obtain all their personal possessions.

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: September 06, 2019

Residential Tenancy Branch