



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 00839907BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RPP, MNDCT, MNRT, MNSD, FFT

Introduction

This hearing was convened as a result of the tenants' application for dispute resolution under the Residential Tenancy Act (Act) for the following:

- An order requiring the landlord to return the tenant's personal property;
- A monetary order for compensation for a monetary loss or other money owed;
- A monetary order for the cost of emergency repairs; and
- A return of his security deposit.

The tenant, the owners of the named corporate landlord, the landlord's legal counsel, and the landlord's agents appeared.

The hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Does this dispute fall under the jurisdiction of the Residential Tenancy Act?

If so, are the tenants entitled to a return of their personal possessions and their security deposit?

If so, are the tenants entitled to a monetary order for monetary loss or other money owed and the costs of emergency repairs?

Background and Evidence

There was no written tenancy agreement submitted; however, the tenant submitted undisputed evidence that he began residing in the rental unit on February 23, 2018 and that monthly rent was \$900.00. The tenant submitted that he paid a security deposit of \$450.00.

The tenant said that he did not have a copy of the tenancy agreement as it was left in the rental unit and the landlord threw away all his papers.

The rental unit is a room at the residential property, which was a hotel.

The tenant submitted said he vacated the rental unit on November 13, 2019; however, it was not his choice as he was forced out by the landlord.

The tenants' monetary claim included the value of personal possession he said the landlord disposed of when he was out of the rental unit. The items listed were numerous and detailed, but included laptops and tablets, blue ray players, digital cameras, digital media box, record player, computer components, a stereo system, cell phone cords, a full size refrigerator, a loveseat, 3 tables, 2 chairs, 2 night stands, 2 table lamps, a fan, a 6' glass entertainment unit, 2 large bags of tools, hairdryers, 5 electric toothbrushes, coffee table, work boots, 3 book shelves, shoe racks, a cat tree, 2 clothes closets, prescription glasses, 4 burner hot plates, kitchen ware, speaker system, a massager, toiletries and towels, coloring books, bed linens, stereo sub woofers, picnic table umbrella, an Ipod player, wall art and hanging pictures, 12 bottles of assorted perfumes, a knife collection, assorted jewelry, 2 cats, family photos, glass skull collection, and bar items. The tenant assigned a value of \$25,000.00 to this personal property.

The tenant also claimed the amount of \$335.00 for the cost of an emergency repair, which he said was for an air conditioner for \$200.00, \$100.00 for labor and \$35.00 for supplies.

The tenant also requested his security deposit of \$450.00.

The tenants' total claim was \$25,785.00.

In support of his claim, the tenant submitted that on November 13, 2019, the landlord RD and six or more family members, staff or friends came towards him from outside the main office. The tenant submitted that he was outside his door and went in for protection. As he was about to close his door, RD ran towards him and hit the door, causing it to connect to his head. This caused bleeding from a deep cut, for which he called the police and ambulance. The tenant said he was taken to the emergency room.

According to the tenant, the police asked if he wanted to press charges and he said that he did. A police report was made and he was advised by them not to return to the hotel that night.

The tenant submitted that he was released from the hospital that night and went to a friend's house. According to the tenant, another tenant called and said that the landlord was removing all belongings and putting them outside, including his two cats.

The tenant submitted that he called the landlord to return his personal possessions and was told that would not happen, as the room was going to be re-rented.

The tenant submitted that he did not have a ride that night, but returned to the residential property the next morning. When he arrived, all his possessions, or what was left of them, were put in the dumpster. The tenant submitted that he and his friend could not get anything out of the dumpster as they were damaged by the heavy rain; however, he took pictures.

The tenant said his whole life was in that room.

The tenant's evidence concerning the value of his personal property was said to be Amazon pictures; however, none were provided. The tenant's other evidence was a written submission, as summarized above.

Landlord's response-

As to the issue of jurisdiction, the landlord submitted that the monthly room rate was \$900.00, but that the parties did not enter into a tenancy as contemplated by the Act. The landlord denied that the tenant paid a security deposit.

The landlord submitted that the rooms do not have their own telephone and that housekeeping was provided, unless refused.

The landlord argued that this dispute was governed by the Innkeeper's Act, and not the Residential Tenancy Act (Act).

As to the issue of the tenants' monetary claim, the landlord submitted that the rooms are not wired for a full stove, but that the room had a mini-fridge and that RD supplied the tenant a hot plate.

The landlord said that the tenant rented a room and that all rooms in the residential property were fully furnished, so there is no way the tenant had furniture in the room.

The landlord's legal counsel submitted that the tenant did not provide evidence in the form of receipts, pictures, or Amazon listings, further submitting that his clients said nothing of value was left.

The landlord's legal counsel argued that the motel room was too small to accommodate all the items listed by the tenant.

Landlord, TD, said they were coming to the tenant's room that day with multiple people for personal safety. He said that the tenant's door was open, they did not push open the door. The tenant left, leaving bags of garbage. TD said all rooms are fully furnished with the standard motel furniture, such as a bed, 2 nightstands, a tv stand and a mini-fridge.

Landlord RD said that the only items left were garbage and pop cans and that the tenant was yelling and shouting, threatening to burn down the hotel. The landlord denied that there were cats in the rental unit.

Analysis

While I have reviewed all evidence before me, including the oral evidence of the parties. I will refer to evidence only as it relates to this decision.

Based upon the relevant evidence and a balance of probabilities, I make the following findings:

Jurisdiction

In considering whether or not this dispute falls under the jurisdiction of the Act, I considered that the tenant paid a monthly rent. I find this more likely than not suggests that the tenants and landlord formed a tenancy.

There was a dispute, however, as to whether or not a security deposit was paid.

I also considered Residential Policy Guideline 9, in making a determination of jurisdiction.

A tenancy agreement includes a license to occupy, which I find the tenant was granted.

Likewise, I do not find there is sufficient evidence to prove that the owner retained access to, or control over a portion of the room, or that they retained the right to enter the rental unit without notice or that the tenant could be evicted without a reason.

Based upon my consideration of the Act and the Policy Guideline, I find that the Act applies to this matter and that I have jurisdiction to decide this dispute.

Monetary Claim

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. In this case, the tenant has the burden of proof to substantiate his claim on a balance of probabilities.

In this case, the parties provided disputed oral evidence. Therefore, the burden rests with the claimant, the tenant here, to provide additional or corroborating evidence that might establish the basis of his claim. I find that he did not.

I find that the tenant submitted insufficient evidence to support his claim. While the tenant said he took photos of his personal property that was said to be put in the dumpster, the tenant failed to provide these photos.

Additionally, the tenant said he looked in the dumpster with his friend; however, that friend was not in attendance at the hearing nor did he provide a written affidavit to show the tenant's personal property was in the dumpster.

Additionally, the co-applicant also did not appear at the hearing to provide testimony as to the personal property or the value.

When looking at the tenant's itemized list of belongings, I find it is questionable that he could have as many items and pieces of furniture as he listed that would fit into a furnished hotel room. I therefore find that his evidence was not credible.

Due to the above, I find the tenant's claim of \$25,000.00 was unsupported by the evidence and it is dismissed.

As to the tenant's claim for a return of his security deposit, I likewise find that he provided insufficient evidence to prove that he paid a security deposit. While the tenant said his papers were stolen, I find he could have provided proof of money paid, such as with a bank withdrawal or credit card payment for the relevant time period.

I therefore dismiss the tenant's claim for a return of his security deposit of \$450.00.

As to the tenant's claim for the cost of emergency repairs, I first of all find that the matter of air conditioning is not an emergency as defined by section 33 of the Act.

Additionally, I find the tenant submitted insufficient evidence to support that he was required to buy an air conditioner or that he paid for one.

I therefore dismiss the tenant's claim for \$335.00.

Due to the above reasons, I dismiss the tenants' entire monetary claim, without leave to reapply.

Conclusion

The tenants' application is 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 31, 2020

Residential Tenancy Branch