



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, OLC, AAT, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an order to suspend or restrict the Landlord's right to enter; for an Order for the Landlord to Comply with the Act or tenancy agreement; for an order to allow access for the Tenant or his guests; and to recover the \$100.00 cost of his Application filing fee.

The Tenant and the Landlord appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure "(Rules)"; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

The Parties agreed that the Tenant moved out of the rental unit on May 31, 2020, although, they disagree as to whether the Tenant left personal property behind after June 8, 2020. As a result of the end of the tenancy, the Tenant's claims are reduced to an Order for the Landlord to Comply with the Act or tenancy agreement in returning the Tenant's remaining personal possessions. The Tenant also applied for recovery of the \$100.00 Application filing fee. As a result, I dismiss the Tenant's other claims without leave to reapply.

Issue(s) to be Decided

- Is the Tenant entitled to an Order for the Landlord to Comply with the Act or tenancy agreement?
- Is the Tenant entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on July 1, 2019 and ran to June 30, 2020, with a monthly rent of \$2,800.00, due on the last day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$1,400.00, and a pet damage deposit of \$1,400.00.

The Tenant said he moved out on May 31, 2020, but that he left some personal possessions in the rental unit, which he was going to retrieve before the end of the tenancy in June 2020. However, the Tenant said that the Landlord changed the locks on June 8, 2020, preventing the Tenant from retrieving the last of his belongings. The Tenant said:

My main concern is not only the money, but being abused by the Landlord. I needed to find a new place and pay the Landlord on this dispute, as agreed. I fulfilled my responsibilities, and on top of that is to stop the Landlord's abuse. I want to keep him aware that he has to follow the law and not do justice by his own hand. I would say I don't care about the money, if my family is safe and in a clean and neat house, with the proper infrastructure and the security, it is not worth paying \$2800.00 for a bad life.

The Landlord said:

He moved [his belongings] with him on June 8 when he was at the property. He is lying to you. There are no personal belongings left in the house. If he had it, he

will have pictures or an item list to prove he still has the belongings in the property. He said he doesn't care about the belongings or money. He just wanted to vent in this hearing and intimidate the current tenant and try to influence my relationship with a current tenant. I gave him a letter saying he and his wife were talking to this tenant. He and his wife are trespassing on my property. He is a so-called Mexican lawyer. I am a victim here by [the Tenant] to drag me through this procedure, when everything could be done through a proper channel – I have a telephone number he could call; I have an email he could write to me. But from his actions, it shows clearly that he didn't notify me that he is moving out. He's coming back and saying he is entitled to those damages.

The Tenant said he left:

...the bottom part of couch, two lamps that I mentioned that he left on the sidewalk, and I left a dog's bed. I didn't have the opportunity to take them out. I tried to go back on June 11 or so, and he was not there. I tried to open the doors, but my key didn't work. He didn't give me a new key.

The Tenant submitted photographs of the Landlord moving the Tenant's lamps to the curb for the Tenant to take with him. However, the Tenant said he did not have room in his vehicle to move the lamps that day. He did not submit any other photographs of items he said he left behind, nor did I find any evidence of these items in the Landlord's photographs to which the Tenant referred.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Rule 6.6 sets out that the person making the claim bears the onus of proving their case on a balance of probabilities. In order to do so, a claimant must present sufficient evidence at the hearing to support their claim, meeting this standard of proof.

When I consider the evidence before me overall, I find that the Tenant did not submit sufficient evidence on a balance of probabilities to support his burden of proof that he left belongings behind. Further, given the animosity I observed between the Parties in the hearing, I find it more likely than not that the Tenant's claim is not based on his desire to retrieve personal property, but in order to make a point about the Landlord's behaviour.

I dismiss the Tenant's claim due to insufficient evidence to support his burden of proof in this matter. The Tenant's claims are dismissed wholly, without leave to reapply.

Conclusion

The Tenant is unsuccessful in his Application, as he did not provide sufficient evidence to support his claims on a balance of probabilities. The Tenant's claims are wholly dismissed without leave to reapply.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: July 22, 2020

Residential Tenancy Branch