



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, FFT

Introduction

The tenant filed an Application for Dispute Resolution on October 26, 2020 seeking a return of their personal property from the landlord. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “*Act*”) on January 15, 2021.

The tenant attended the conference call hearing; the landlord did not attend. The tenant described how they provided the landlord notice of this hearing via registered mail. They spoke to the mail delivery service who provided that the letter item was put in the landlord's Canada post letterbox. From this description, I am satisfied the landlord provided notice to the landlord, in line with s. 89 of the *Act*.

The landlord did not provide documentary evidence either to the tenant or this branch in advance of the hearing. The tenant stated they had no communication with the landlord after their end of tenancy move-out date.

Issue(s) to be Decided

- Is the tenant entitled to an Order stating that the landlords are to return personal property, pursuant to section 65 of the *Act*?
- Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The tenant described the living arrangement wherein they maintained the property on which the rental unit sits, in exchange for the rental amount. They previously paid rent up to March 2019 in the amount of \$800, after this they paid no rent amounts monthly.

The tenant provided that the move out “was a process” through the month of October. They were blocked from further entry onto the rental unit property on October 24, 2020. The involved the police to speak with the landlord who still refused to allow the tenant entry to complete the move out.

The tenant initially applied for a return of a vehicle; however, a short time after their application they were able to remove the vehicle from the property area. What remains is a trampoline (approximately 7 years old with an estimate value of \$1,800) and a above-ground swimming pool (approximately 3 years old with an estimate value of \$1,000). Additionally, there are miscellaneous items, such as tools, amounting to what the tenant estimates is \$600. The tenant is not aware of the current location of the items, unable to see them from a neutral viewpoint off the property.

Analysis

The *Act* s. 65 provides that an arbitrator may order that “personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned.”

From what the tenant provides here in their submissions, I find the landlord is holding the tenant’s personal property, with no prior arrangement in place for them to do so. This is partially based on the tenant describing in detail the age and approximate value of each piece, which verifies that these pieces exist. This is also based on the description of the move out where they endured blocked passage to the rental unit property and having to leave these items behind.

Because of these facts, I find on a balance of probabilities that the landlord is withholding personal property belonging the tenant. The landlord shall return these items to the tenant forthwith, within the timeline I provide below. I caution the landlord that the tenant is free to pursue a claim for monetary compensation should they not return the items to the tenant.

Because the tenant is successful in their Application, I award the full amount of the \$100 Application filing fee to them.

Conclusion

The landlord shall return the items to the tenant within **TWO WEEKS** of their receipt of this binding decision. This affords the landlord a reasonable opportunity to present the items in a damage-free condition to the tenant.

I award I order the landlord to pay the tenants the amount of \$100 for the filing fee. I grant the tenant a monetary order for this amount. This monetary order may be filed in the Provincial Court (Small Claims) 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 *Act*.

Dated: January 15, 2021

Residential Tenancy Branch