



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

RPP

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for the landlord to return the tenant's personal property pursuant to section 65

The tenant attended the hearing and was given the opportunity to make submissions as well as present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

Attendance and Service

The landlord did not appear at the hearing.

I kept the teleconference line for 30 minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct call-in number and participant code for the landlord had been provided.

The tenant provided affirmed testimony that she filed the Application for Dispute Resolution on June 22, 2022 and served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail sent the same day. Under section 90, the landlord is deemed to have received the documents under section 90 of the Act five days later, on June 27, 2022.

Further to the credible testimony of the tenant, I find the tenant served the landlord as required under the Act on June 27, 2022.

Issue(s) to be Decided

Is the tenant entitled to the relief requested?

Background and Evidence

The tenant provided undisputed testimony as the landlord did not attend the hearing.

The tenant stated she rented a mobile home from the landlord beginning September 1, 2021. Rent was \$400.00 and the tenant provided a security deposit of \$200.00 to the landlord which the landlord currently holds without her authorization.

The tenant stated that the Ministry directly paid her rent to the landlord monthly and no arrears were owing.

Throughout the tenancy, the tenant reported the landlord behaved in a manner which caused her to be increasingly afraid of him. For example, he would come unannounced to the unit and demand more rent.

In March of 2022, the tenant testified that the landlord grabbed her, injured her arms and screamed at her. The tenant stated she became terrified on the landlord and refused to return to the unit, even to collect her belongings. She stayed with a friend and then became homeless.

The tenant stated that with the support of her case worker, she reported the landlord to the police and filed an Application for Dispute Resolution on June 22, 2022. She stated the police phoned the landlord and told him to give the tenant her personal belongings.

On July 1, 2022, the tenant stated she learned the landlord had thrown her clothing and some of her possessions outside. She retrieved the items which she discovered were mouldy and ruined. Nothing could be salvaged.

The tenant stated that many items were kept by the landlord with an estimated value as follows:

ITEM	Estimated Value
Air conditioner (2 years old)	\$1,500.00
Stereo and speakers (new)	\$400.00

Winter boots (new)	\$60.00
DVDs (200) @ \$22.00 each	\$1,000.00
Books (30)	\$100.00
Indoor barbecue (new in box)	\$60.00
Winter clothes, suit	\$200.00
Total Estimated Value	\$3,320.00

The tenant testified the landlord has told her she must pay him \$10,000.00 or she will not get her belongings back. The landlord refused to explain to the tenant how this amount was calculated.

The tenant requests an order compelling the landlord to return her personal possessions to her at the address which appears on the first page.

Analysis

Section 24 of the Residential Tenancy Regulation (the "Regulation") provides that a landlord may consider that a tenant has abandoned personal property if the tenant leaves the property in the unit after vacating the unit and only if the landlord receives notice of the tenant's intention not to return to the residential property. Section 25 of the Regulation further provides that a landlord must store tenant's personal property for no less than 60 days following the date of removal.

I accept the tenant's credible testimony and find the tenant did not abandon the unit or her personal possessions but was compelled because of personal safety considerations to suddenly vacate the unit. I find the tenant reported the landlord to the police who instructed the landlord to return her personal possessions to her.

I find the landlord disposed of some of the tenant's possession by dumping them in front of the trailer without informing her. I accept her testimony the items were damaged beyond salvaging, and all were therefore disposed of.

The tenant states that the landlord has kept some of her belongings and has denied the tenant access to the unit unless she paid an exorbitant amount of money. I accept the tenant's credible testimony in this regard.

Section 65(e) allows the Director to make an Order requiring a landlord to return personal property:

65 (1) Without limiting the general authority in section 62 (3) [arbitrator's authority], if an arbitrator finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the arbitrator may make any of the following orders:

(e) that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned;

Further to the uncontradicted credible testimony of the tenant and the Act, I find that the tenant is entitled to an Order for the return of the personal property at the cost of the landlord.

Accordingly, I order as follows:

1. By 5:00 PM on November 5, 2022, the landlord shall send an email to the agent for the tenant KR whose email address appears on the first page. The landlord shall seek instructions on where and when to deliver the tenant's property. The agent shall provide the location and two times and dates between November 5 and November 15, 2022 when the landlord shall deliver all of the tenant's possessions including a list of all returned items. The agent and the tenant may be accompanied by the police or any appropriate assistance to assure peaceful transfer of the possessions.
2. By 5:00 PM on November 5, 2022, the landlord shall provide his email address to the agent KR and all communication between the parties shall be my email at the email address for KR and the email address provided by the landlord.
3. Should the landlord fail to return the property as ordered, the tenant is at liberty to make an application seeking damages in relation to the loss of their personal property.
4. The tenant's address for the return of the security deposit appears on the first page. The landlord is deemed to be notified of the tenant's forwarding address in compliance with the Act on the date of this Order.

5. A copy of this Order shall be served by the tenant upon the landlord by registered mail sent to the landlord's address which appears on the first page. All subsequent communication shall be by email.

Conclusion

The landlord is ordered to return the tenant's personal possessions as set out above.

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: October 31, 2022

Residential Tenancy Branch