



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes RPP, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (Application) that was filed by the Tenants under the *Residential Tenancy Act* (the Act) on April 12, 2023, seeking:

- The return of their personal possessions; and
- Recovery of the filing fee.

As the Landlord acknowledged service of the Notice of Dispute Resolution Proceeding (NODRP) from the Tenants, the hearing proceeded as scheduled. All parties provided affirmed testimony. The parties were advised that personal recordings of the proceedings were prohibited under the Rules of Procedure and confirmed that they were not recording the proceedings.

Issue(s) to be Decided

Are the Tenants entitled to the return of their personal possessions?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The Landlord acknowledged that they have prevented the Tenants from retrieving a sea can containing their possessions, which is in the driveway. The Landlord stated that they were withholding access to the sea can, which the Tenants attempted to retrieve after the Landlord notified them that it was being deemed as abandoned, as the Tenants have outstanding debts with them.

Analysis

Based on the testimony of the Landlord at the hearing, I am satisfied that the Landlord is in breach of section 26(1) of the regulations by withholding access by the Tenants to the sea can and by preventing their removal of it from the property. Although the Landlord stated that they were withholding access to and removal of the sea can from the Tenants due to outstanding debt, no testimony was provided that the debt is for their costs for removal and storage of the property, or a search required to comply with section 27 of the regulations. As a result, I find that the Landlord is not permitted to prevent the Tenants from removing the sea can until the outstanding debts are paid. The Landlord may file an Application for Dispute Resolution against the Tenants with the Residential Tenancy Branch (Branch) seeking recovery of amounts owed, should they wish to do so. The Landlord may use the mailing addresses set out by the Tenants in the Application, and confirmed at the hearing as their accurate forwarding addresses, for this purpose.

I therefore order the Landlord to immediately provide the Tenants with access to the sea can for the purpose of its removal. I also order the Tenants to have it removed as soon as possible and not later than a week after the date of the hearing.

As the Tenants were successful in their Application, I also grant them recovery of the \$100.00 filing fee pursuant to section 72(1) of the Act.

Conclusion

I grant the tenant's Application as set out above.

Pursuant to section 67 of the Act, I grant the Tenants a monetary order in the amount of **\$100.00** for recovery of the filing fee, and I order the Landlord to pay this amount to the Tenants. The Tenants are provided with this order in the above terms and the Landlord should be served with this order as soon as possible. Should the Landlord fail to comply with this order, it may be filed in the Small Claims Division of the Provincial Court 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: June 15, 2023

Residential Tenancy Branch