



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, RPP, FF

Introduction

This was the hearing of an application by the tenant for an order directing the landlord to return her personal property and for a monetary order, including an order for the return of her security deposit. The hearing was conducted by conference call. The tenant participated. The landlord did not call in and did not participate. The evidence provided by the tenant established that she sent a copy of her application for dispute resolution and notice of the hearing to the landlord by registered mail sent on September 22, 2010. The landlord did not pick up the registered mail, but pursuant to section 90 of the *Residential Tenancy Act* she is deemed to have received it on the 5th day after mailing.

Issues(s) to be Decided

Should the landlord be directed to return the tenant's goods

Is the tenant entitled to a monetary order and if so in what amount?

Background and Evidence

On August 30, 2010 the tenant told the landlord that she was unable to pay rent for September and would immediately move out. The tenant moved most, but not all of her belongings on August 31, 2010. She returned on September 1, 2010 at 9:00 A.M. with a moving truck to pick up the rest of her belongings. The locks to the rental unit had been changed and the landlord refused to allow her access. The police attended, but the landlord would not allow the tenant to retrieve her belongings.

The tenant provided a list of the goods held by the landlord at the rental unit:

- Black sectional sofa
- Patio furniture, table and chairs
- Lawn swing
- Ikea queen bed
- Single captain's bed
- Barbeque
- Vacuum
- Glasses, dishware
- Two large rugs

All of the items save for the sofa are the property of the tenant. The tenant testified that the sofa was rented on a rent to own basis with monthly payments of \$155.81. She has not made payments since August and late fee and other charges have accrued.

According to the tenant's submission, the rental agency contacted the landlord who stated that she no longer has the sofa. The tenant claimed amounts for the items listed. She also requested payment of expenses for the truck and movers in the amount of \$150.00 and she claimed \$600.00, being the amount of her security deposit that she said she requested in writing that the landlord return.

Analysis and Conclusion

I accept the tenant's testimony that she attended at the rental property on September 1, 2010 to retrieve her goods but that the landlord refused to allow her access to the rental unit and to her belongings. The landlord did not apply for an order for possession and section 26 (3) of the *Residential Tenancy Act* provides that whether or not a tenant pays rent, a landlord must not seize any personal property of the tenant, or prevent or interfere with the tenant's access to the tenant's personal property.

I direct the landlord to forthwith allow the tenant to attend at the rental unit or such other place as the tenant's possessions may be located and to permit the tenant to remove her belongings, including all of the belongings listed above.

The tenant must deliver a copy of this decision to the landlord and thereafter contact the landlord to arrange a time to pickup her possessions. If the tenant's goods or any part of them have not been returned by November 15, 2010, the tenant has leave to apply for monetary compensation for such goods as may be unreturned or recovered in damaged condition.

I find that the tenant is entitled to a monetary award for the amount she expended on moving expenses that was wasted when the landlord refused access to obtain her belongings. I award the tenant the sum of \$150.00 for the truck and mover. The tenant is entitled to recover the \$50.00 filing fee paid for her application for a total award of \$200.00 and I grant her a monetary order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court.

The tenant's application for compensation for the cost of her goods, for furniture rental charges and for the return of her security deposit is dismissed with leave to reapply. The tenant was advised at the hearing that she must submit to the Residential Tenancy Branch and to the respondent, copies of all documents necessary to prove any further claim she may make in a future application for dispute resolution.