



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC and FF

Introduction

This hearing was convened on an application by the tenant on January 18, 2013 seeking a Monetary Order in compensation for personal property left at the rental unit and disposed of by the landlord.

As a matter of note, this tenancy was the subject of a hearing on January 2, 2013 on applications by both parties. In her decision of January 8, 2013, the Arbitrator granted the landlord a monetary award for unpaid rent for October 2012, including authorization to retain the security deposit in set off and a Monetary Order for the balance of \$1,325

The tenant's claim for return of personal property was dismissed as the landlord had disposed of it, but the tenant was granted leave to reapply for monetary compensation for the property with advice to both parties that they consult the regulations on abandoned goods.

Issue(s) to be Decided

Is the tenant entitled to a monetary award for property left at the rental unit when he vacated and, if so, in what amount?

Background and Evidence

This tenancy began on May 1, 2012 under a fixed term rental agreement set to expire on October 31, 2012 and the tenant vacated on October 4, 2012 according to the tenant or on October 10, 2012 according to the landlord.

Rent was \$2,400 per month plus \$75 in utilities and the landlord was awarded the \$1,200 security deposit in set off against unpaid rent for October 2012.

In support of the present claim, the tenant has submitted four photographs of some of the property in question, and the landlord has submitted three. In addition, the tenant submitted a list of the property with claimed values as follows:

Five 2' x 7' display grids @ \$40.90 (error extension x 6 and total)	\$ 254.40
Two 2' x 8' display grips @ \$46.90	93.80
Five 2' x 4' display grids @\$24.50	122.50
Twenty 4' grid hooks @ \$0.95	19.00
Mattress	100.00
Sand box	80.00
TV (older cathode ray tube)	50.00
Couch	50.00
Oreck Air Purifier	450.00
Mini trampoline	40.00
TOTAL	\$1,259.70

Most of the property in question had been left in the car port and the tenant stated that he had not felt he could retrieve it because the landlord was having the rental unit painted shortly after he had vacated and was living in the rental unit in November 2012.

The landlord stated through her translator that the tenant had never asked if he could pick up the items in question and he would not have been denied. She stated that she had someone call the tenant on November 12, 2012 to find out if and when he would remove his property but he had hung up on them, an incident the tenant did not recall.

The tenant stated that he had written to the landlord on November 20, 2012 to request return of the property but had no reply. The landlord stated she had never received such letter and no copy was submitted into evidence.

The landlord gave evidence that she had paid \$200 to have the property disposed of on December 11, 2012, although no receipt had been submitted into evidence.

Analysis

As noted, in the previous decision, the Arbitrator urged the parties to consult the regulations on abandoned goods.

Regulation 24(1) under the *Act* provides that a landlord may consider that a tenant's property has been abandoned if left for a continuous month after the tenancy has ended. The property had been left for six weeks after the formal end of the tenancy and over two months after the latest of the claimed move out dates.

I do not accept the evidence of the tenant that he believed he could not go on the property in October and November of 2012, and that if the property had been of the value he claims, he would have seen to its removal.

Regulation 25(2) states that a landlord may dispose of such property in a commercially reasonable manner if the landlord believes:

- (a) the property has a total market value of less than \$500,
- (b) the cost of removing, storing and selling the property would be more than the proceeds of its sale, or
- (c) the storage of the property would be unsanitary or unsafe

On the basis of the photographic evidence, I find that it was absolutely reasonable for the landlord to find that the property in question had a value less than \$500.

If not before, after having been left in the carport for two months, the mattress, couch and CRT television were probably of negative value, and I note the landlord stated their were growing mould.

The air purifier was a small item that could easily have been moved, so it was reasonable for the landlord to deduce that the tenant, in leaving it behind, considered it to be of no value.

Unless one had specialized knowledge of the purpose of the display grids, there is nothing in their appearance that would cause a reasonable person to ascertain the value attached to them by the tenant and he has provided no documentary proof of the claimed value.

Therefore, I find that the landlord acted in compliance with the regulations in disposing of the property in question and I dismiss the tenant's claim without leave to reapply.

Conclusion

The application is dismissed without leave to reapply.

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: April 10, 2013

Residential Tenancy Branch