



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was an application for a monetary Order for compensation for a loss of property to the applicant occasioned by the respondent's breach of the Act. Only the applicant attended the hearing.

Issue(s) to be Decided

Is the applicant entitled to compensation?

Background and Evidence

The applicant testified that he sent the dispute resolution package to the respondent care of the respondent's home address by registered mail on June 17, 2014. The applicant testified that he verified that the respondent still resided at this address by visiting that location and observing the respondent there a few days prior to sending the package. The package was either refused or unclaimed and returned to the applicant. The applicant testified that he observed the respondent parked across the street from his new address around July 1, 2014. The applicant testified that he had not given the respondent his new address. The applicant submitted that the respondent could only have obtained his address from the return address on the dispute resolution envelope.

The applicant testified that he entered into a tenancy with the respondent on January 5, 2012 with monthly rent amounting to \$ 600.00 payable on the 1st day of each month. The applicant testified that on or about June 12, 2012 the respondent told him "I want you out" and threatened that if he did not move in a few days he would move him out. The respondent served the applicant with a one month Notice to End the Tenancy on June 14, 2014. The applicant testified that for several days between June 12 and June 18, 2012 the respondent cut off his hydro, water and illegally entered his unit causing mischief therein.

The applicant testified that on June 18, 2013 he discovered that the respondent had changed his locks and removed all his belongings. An agent of the respondent called the applicant several times arranging various dates to recover his belongings, cancelling on several of those

occasions. The applicant was finally able to recover his belongings which were stored at the respondent's place of business.

The applicant testified that the RCMP advised him that they supervised the "eviction" and were advised by the respondent that he did not need an Order for Possession as there was not a lawful tenancy.

The applicant found that all of his belongings were placed in plastic bags. Many of those items were either cut up or broken to fit into bags. His sports trophies were all broken. His antique heirloom clothing belonging to his late father packed in plastic bags containing dirty dishes and house plants. Many of his furniture items such as a coffee table, dining room set and original art work were never returned. The applicant testified that all his documentation evidencing the tenancy except two receipts was intentionally destroyed by the respondent during this process.

The applicant conducted a video inventory of what was returned illustrating the condition the items were in and how they were packed. The applicant testified that he was homeless for a long period as a result of the respondent's conduct and has not been able to replace most of the lost or damaged items. He estimates that the loss was valued at least \$ 4,999.00.

Analysis

I find that the applicant was a very credible witness and I accept his evidence throughout this hearing. I find that the respondent was deemed to have been served on June 22, 2014, five days after mailing the dispute resolution package to him.

I find that a lawful tenancy existed between the applicant and respondent which could only have been ended pursuant to section 44 of the Act:

How a tenancy ends

44 (1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

- (i) section 45 [*tenant's notice*];
- (ii) section 46 [*landlord's notice: non-payment of rent*];
- (iii) section 47 [*landlord's notice: cause*];
- (iv) section 48 [*landlord's notice: end of employment*];
- (v) section 49 [*landlord's notice: landlord's use of property*];
- (vi) section 49.1 [*landlord's notice: tenant ceases to qualify*];
- (vii) section 50 [*tenant may end tenancy early*];

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

- (c) the landlord and tenant agree in writing to end the tenancy;
- (d) the tenant vacates or abandons the rental unit;
- (e) the tenancy agreement is frustrated;
- (f) the director orders that the tenancy is ended.

Here although the respondent issued a one Month Notice to End the Tenancy, he forcefully evicted the applicant prior to the effective date of the Notice without an Order or Writ of Possession permitting him to do so. Accordingly I find that the respondent's conduct was in deliberate breach of the Act and the lawful tenancy.

I further find that the respondent's conduct caused the loss of the tenant's property and furthermore made it difficult for him to quantify his loss with precision. I accept the tenant's evidence as I found him to be a credible witness. I find that his loss was equal to or greater than the amount claimed and therefore award him the sum of \$ 4,999.00 inclusive of the filing fee amounting to \$ 50.00 as this was the maximum amount claimed by the applicant.

Conclusion

Pursuant to section 67 of the Act I grant the applicant a monetary Order in the amount of \$ **4,999.00**. This Decision and Order must be served on the respondent as soon as possible. If the respondent fails to satisfy the Order the applicant may execute it in the Small Claims Court of B.C.

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: September 16, 2014

Residential Tenancy Branch

