



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0957661 B.C. LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes AAT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;

While the tenant and his agent attended the hearing by way of conference call, the landlord did not. I waited until 11:10 a.m. to enable the landlord to participate in this scheduled hearing for 11:00 a.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant provided sworn, undisputed testimony that he had served the landlord with this application for dispute resolution hearing package ("Application") and evidence by way of Registered Mail on January 10, 2019. In accordance with sections 88, 89, and 90 of the Act, I find that the landlord was deemed served with the tenant's application and evidence on January 15, 2019 five days after mailing.

I clarified with the tenant at the beginning of the hearing what remedy he was seeking in his application. The tenant indicated that he is not requesting an order for possession of the rental unit, or for the landlord to restore the tenancy. The tenant testified that the landlord is still in possession of his personal belongings, and he simply wanted the landlord to return them to him.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to return the tenant's personal property?

Background and Evidence

The tenant testified in this hearing that he no longer has access to the rental unit, or the personal belongings that were left behind. The landlord disputes that a tenancy ever existed between the parties, and the tenant no longer resides there.

The tenant did not have a list of the items that the landlord has, but testified that the landlord may still be in possession of them as he was never given access to retrieve his personal belongings.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

As the tenant did not apply for monetary compensation as part of this application, no order for monetary compensation can be made at this time.

As I am unable to determine what items the landlord still has, I order that the landlord communicate with the tenant by March 15, 2019 to arrange for the return of the tenant's personal belongings to him. The tenant testified that the landlord was in possession of his contact information, and may contact him that way. If the landlord fails to comply with the *Act*, the tenant may apply for monetary compensation under section 67 of the *Act*.

Conclusion

The tenant indicated in the hearing that he was not requesting that the tenancy be restored, or that the landlord provide access to the rental unit. The tenant wants to retrieve his personal belongings from the landlord. The landlord is ordered to communicate with the tenant by March 15, 2019 to arrange for the return of the tenant's personal belongings to him.

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: February 14, 2019

Residential Tenancy Branch