



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, RPP

Introduction

This hearing was scheduled to convene at 1:30 p.m. on October 12, 2023 concerning an application made by the tenant seeking a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; a monetary order for the return of all or part of a security deposit or pet damage deposit; and an order that the landlord return the tenant's personal property.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call.

The tenant advised that the landlord was served with the Notice of Dispute Resolution Proceeding and required documents (the Hearing Package) by registered mail on July 10, 2023 and has provided a Canada Post Registered Domestic Customer Receipt as evidence, which contains a Canada Post tracking number. The Canada Post website shows that the package was successfully delivered on July 21, 2023. I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

The tenant also advised that he did not include any of the evidentiary material with the Hearing Package sent to the landlord. Any evidence that a party wishes to rely on must be provided to the other party, even if they already have a copy, because it is important for all parties to know what is before me. Since the tenant has not served the landlord with any evidence, I decline to consider it.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for re-renting the rental unit before the tenant moved out?
- Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?
- Should the landlord be ordered to return the tenant's personal property?

Background and Evidence

The tenant testified that he started paying rent in September, 2021, but a previous tenant remained in the rental unit until October 1, 2021. Rent in the amount of \$750.00 was payable on the 1st day of each month, all of which has been paid except for July, 2023. On September 1, 2021 the tenant paid a security deposit to the landlord in the amount of \$450.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a room in a large house, which the landlord converted from a 3 bedroom home to a 5 bedroom home. The landlord does not reside on the property.

In March, 2023 the tenant buried his dad, and in April the tenant's son died. On June 16, 2023 the tenant went out of the Country after his son died. While the tenant was gone, the rental unit was rented to another person or persons.

The landlord did not give the tenant a notice to end the tenancy, but changed the lock while the tenant was out of the Country. The tenant's personal property was still in the rental unit, such as a bed, TV, Futon, fan, night table and documents. The tenant was able to retrieve the documents, which the landlord had placed in a bin.

The landlord was provided with the tenant's forwarding address on the Hearing Package sent by registered mail on July 10, 2023.

The tenant claims \$1,200.00 for loss of use of the rental unit, recovery of the \$450.00 security deposit and an order that the landlord return the tenant's personal property.

Analysis

A landlord must not trespass on a rental unit while it is occupied by a tenant, and in particular must not end a tenancy unless an approved form of a Notice to End a Tenancy is given to the tenant.

In this case, I accept the undisputed testimony of the tenant that the landlord allowed other occupants to reside in the rental unit without ending the tenancy first. That is contrary to the law. I find that the tenant has established a claim of \$1,200.00 for loss of the rental unit.

A landlord must return a security deposit in full to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution claiming against the security deposit within that 15 day period. If the landlord does neither, the landlord must repay the tenant double the amount.

Since the tenant provided the forwarding address with the Hearing Package, I order that the landlord return the tenant's \$450.00 security deposit within 15 days from the date of this Decision, or make an application to retain it. If the landlord fails to do so, the tenant will be at liberty to apply for double the amount. Therefore, I dismiss the tenant's application, with leave to reapply.

I also accept the undisputed testimony of the tenant that the tenant's personal items remained in the rental unit and I order the landlord to return them to the tenant within 15 days of the date of this Decision. If the landlord fails to do so, the tenant will be at liberty to apply for further monetary compensation for the landlord's failure to comply with this order.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,200.00. The landlord must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

I further order the landlord to return all of the tenant's personal property within 15 days of the date of this Decision.

The tenant's application for a monetary order for return of the security deposit is hereby dismissed with 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: October 13, 2023

Residential Tenancy Branch