

Residential Tenancies Tribunal

Application 2023-1043-NL

Decision 23-1043-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:11 p.m. on 27-February-2024.
2. The applicant, [REDACTED] represented by [REDACTED] hereinafter referred to as “the tenant” attended by teleconference. Authorized representative form submitted by applicant (TT#1).
3. The respondent, [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with her application stating that she had served the landlord via pre-paid registered mail [REDACTED] on 31-December-2023 (TT#2). Canada Post tracking indicates that the mail was never retrieved. The respondent confirmed that she did not receive the document as she was unable to get to the post office. In accordance with the *Residential Tenancies Act, 2018* registered mail is considered served 5 days after it has been sent. As the landlord was properly served, and as any further delay in these proceedings would unfairly disadvantage the tenant, I proceeded with the hearing.
5. The tenant, along with 2 others, rented a room in a single dwelling with the landlord also residing at the residential premises. There was a verbal month-to-month rental agreement that commenced on 8-October-2023. The tenant vacated the unit on 30-October-2023. Rent was \$1100.00 per month due on the first of each month. A security deposit was never paid.

Issues before the Tribunal

6. The tenant is seeking:
 - a. Return of Possessions \$1391.00
 - b. Hearing expenses \$34.07

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*: Section 12-1; Fees.

Issue # 1: Return of Possessions \$1391.00

Relevant Submission

9. The tenant's representative testified that there was an altercation at the unit on 30-October-2023 which involved the *Police* and ultimately ended the tenancy that day. The tenant's representative stated that although most of the tenant's personal possessions were returned on that day, there were still some items missing and presumed to still be at the residential premises. The tenant is seeking compensation to replace the missing items in the amount of \$1391.00. The tenant submitted a list of items as follows (TT#3):

Possessions to be Returned

~~Four~~ ^{Three} fully Loaded Bags and four pairs of shoes)

Bag 1

Type: Sporty bag

\$ 33.5

Color: Red and white

Contents: 1) 3x slippers (two healy and one flat) @ 15 + 25 + 13 = 53

2) 4x shoes (one carton color and 2 oxblood) and 1 white baby shoe

@ 27 + (25 x 2) + 14 = 91

Bag 2

Type: Back Pack Bag

\$40

Color: Black

Contents: 1) 3x Sanitary Pads @ \$1.5 = 4.5

2) Pairs of Stockings @ \$2.0 x 4 = 8.0

3) Winter cap @ \$15 x 3 = 45

4) Handglooves @ \$10 x 3 = 30

5) female slippers @ \$15 x 1 = 15

6) 3x tables of soap @ \$4 x 3 = 12

7) Mother's medication @ \$7 x 4 = 28

8) Miscellaneous @ \$ = 55

9) Makeup kit @ = 35

10) Insert drugs = 20

Bag 3

205.5

Bag 3 10) insert drugs = 20 205.5
 Type: Handy bag
 Color: Black
 Contents: 1) 1x Allienware Laptop } \$760
 2) Laptop charger } \$760.00
 Others Damaged Food stuff \$100
 4 pairs of Snickers and canvas (1 black, 1 white, 1 pink, and 1 mixed color)
 @ 25 + 18 + 15 + 10 = \$68 \$168
 One Thousand Three Hundred & ninety one Dollars \$1,391.00

Tenant's Position

10. The tenant's representative testified that there were 3 fully loaded bags of personal belongings missing and 4 pairs of shoes. The tenant's representative also testified that one of the bags contained a 2-year-old laptop and charger. The tenant's representative stated that in addition to the missing items, some of the tenant's food was damaged by the landlord by mixing it together in bags.

Landlord's Position

11. The landlord disputes that any personal belongings of the tenant were left at the residential premises. The landlord testified that there was an altercation on the 30-October-2023 whereby she was forced to call the *Police* after the tenant threw her over the stairs causing both physical and emotional harm to her. The landlord testified that the *Police Officer* removed all the tenant's personal belongings which was all stored in bags (15-20 bags) on that day, and there wasn't anything remaining in the unit to the best of her knowledge until she realized that there were some shoes and a pair of sneakers in the unit. The landlord testified that she called the *Police Officer* to return to the unit and remove the additional items that she found after the tenant left. The landlord testified that the *Police Officer* arrived at the premises 2 days later to pick up the remaining items. The landlord testified that she does not have any of the tenant's personal belongings and would personally have no desire to keep anything belong to the tenant. The landlord also testified that the tenant was going through all the bags on the lawn and the sidewalk as the *Police Officer* was bringing items out of the house. The landlord said that there was clothes and shoes and food all over the place and bags torn open everywhere. The landlord testified that the tenant stored food in bulk by placing it in large black plastic bags and she stated that the bags of food were given back to the tenant that day without any damages.

Analysis

12. The tenant submitted photographs of clothes, shoes and personal hygiene items, however the tenant was unable to show (1) that she was the owner of those items and (2) that the items were left at the residential premises. The landlord disputed that there were items left behind except some shoes and a pair of sneakers. The fact that the landlord called the *Police Officer* to come back and pick up those items, demonstrates that the landlord did not want any of the tenant's items. It also showed that the landlord was considerate to ensure

that the tenant received all her belongings. I asked the tenant's representative if the *Police Officer* had delivered additional items to the tenant a couple of days after she vacated, and the representative confirmed that the *Police Officer* did show up with shoes and sneakers. As for the laptop and the charger, the tenant was unable to show that she had ever purchased or was the owner of a laptop. As for the food, I asked the tenant's representative to explain in detail how the food got damaged, and he stated that it got mixed in the wrong bags.

13. In situations dealing with immediate evacuations and personal belongings left behind, the evidence has to be weighted to make a determination. In this situation, I find that the landlords' testimony out weighted the evidence presented at the hearing and the representative's testimony. If the landlord would take the effort to call the *Police* to come back to the unit to pick up a couple of pairs of shoes and a pair of sneakers, then it is unlikely that she would want to keep any of the other items as listed above. The fact that the *Police Officer* was the person removing the tenant's contents from the unit indicates that all items would have been returned and a laptop would not have been misplaced.
14. I find that the tenant was unable to prove her case that there was a \$1391.00 value of personal belongings left at the unit and for that reason, I find that the landlord is not responsible to compensate the tenant for the missing items as listed above.

Decision

15. I find the tenant's claim for compensation for possessions does not succeed.

Issue # 4: Hearing Expenses \$34.07

16. The tenant paid an application fee of \$20.00 to Residential Tenancies and provided a copy of the receipt. Also, the tenant incurred postal fees in the amount of \$14.07 for the purpose of the hearing (TT#4).
17. As the tenant's claim has not been successful, the landlord is not responsible for the hearing fees.

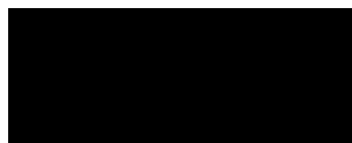
Decision

18. The tenant's claim for hearing expenses does not succeed.

Summary of Decision

19. I find that the tenant's claim for compensation for possessions does not succeed.
20. I find that the tenant's claim for hearing expenses does not succeed.

March 22, 2024
Date



Pamela Pennell
Residential Tenancies Office