

Residential Tenancies Tribunal

Application 2024-0397-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:03 p.m. on 2-July-2024.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with his application stating that he had the landlord served with the notice of hearing electronically by email to: [REDACTED] on 7-June-2024 (TT#1). The landlord’s representative confirmed receipt of the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a written month-to-month rental agreement that commenced on 1-March-2022. The tenant vacated the unit on 30-November-2023. Rent was \$875.00 per month due on the first of each month. A security deposit of \$430.00 was paid on 7-February-2022 and is no longer in the landlord’s possession as it was dealt with in a previous decision.

Case History

6. The landlord made an application to the *Director* - file # 2023-124 (attached) to dispose of abandoned personal property on 22-December-2023 whereby the landlord declared that the rental agreement terminated on 30-November-2023 and the tenant could not be located to provide a copy of the inventory of his abandoned personal items. The landlord provided documentation to support the claim that they made every effort to contact the tenant. The landlord also declared that the property identified had an approximate value of \$875.00 and it would have cost more to remove, store and sell than the proceeds from the sale of the abandoned goods. The landlord received authorization from the *Director* dated 4-January-2024 to immediately dispose of the abandoned personal property as provided on the inventory list.

Issues before the Tribunal

7. The tenant is seeking:
 - a). Possessions Returned \$24,100.00

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

Issue # 1: Possessions Returned \$24,100.00

Relevant Submission

9. The tenant's representative testified that the landlord disposed of all the tenant's personal belongings and stated that the tenant wishes to be reimbursed for the value of his belongings. The tenant submitted a list of inventory to support the claim (TT#2). See copy of list below:

List of Belongings

To replace everything it will cost \$24100

Round off to \$25000 incase there is something I forgot

1. Leather couch blue \$1500
2. 55" Samsung 4K Smart TV \$2000
3. Solid oak bar style table with 6 Chairs \$2500
4. Beauty Rest evolution Queen Size Box Spring and Mattress \$2500
5. Rocking Chair \$500
6. 911 Personal clothing \$5000
7. Linens \$1000
8. Kettle \$50
9. coffee maker \$50
10. Toaster \$20
11. Microwave \$140
12. Actifry \$80
13. Silverware, Pots, Pans, and dishes \$460
14. Bathroom set. \$150
15. T.V stand \$600
16. Radio \$50
17. Pictures on wall \$300
18. Books and Movies \$250
19. Microsoft Laptop computer \$2000
20. Silveray Player Samsung \$150
21. Personal items and supplies \$1500
22. Desser \$500
23. coffee and end tables \$600
24. Lamps \$200
25. Nightstand \$150
26. bed frame \$700
27. Suitcases and back pack \$500
28. Samsung tablet \$400
29. Pens Paper, Puzzles, Cards etc \$100
30. Cleaning materials \$150

Tenant's Position

10. The tenant's representative testified that her client was aware that the landlord made an application to the *Director* for disposal and stated that she requested a copy of the inventory and the photographs for review. The tenant's representative stated that the landlord's inventory list failed to show all the items that were in the unit and as such, the landlord did not have authorization to dispose of all the belongings. The tenant's representative also stated that the landlord did not do their due diligence in trying to locate the tenant.

Landlord's Position

11. The landlord's representative disputed that they disposed of anything other than what they presented to the *Director* in the photographs and/or list of inventory. The landlord's representative also disputed the tenant's claim that they did not do their due diligence to locate the tenant. The landlord's representative testified that they followed the procedure to dispose of abandoned personal property as set out in the *Act* and they made every attempt to reach the tenant using 2 separate telephone numbers which were provided to them.

Analysis

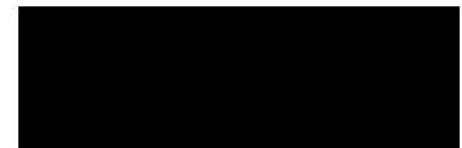
12. Once a landlord is granted permission to dispose of abandoned personal property by the Director of Residential Tenancies, the only thing that can be disputed is whether or not the landlord's application to dispose contained false information or lacked relevant information. I asked the tenant's representative if there were any abandoned items not present on the landlord's inventory list or if the list contained any false information and she responded that there was a television in the unit that was not on the landlord's inventory list. I asked the landlord's representative if they disposed of a television, and she responded that there was not a television in the unit and that their photographs showed all items in the unit except the items that had been placed in bags by the tenant. I asked the tenant's representative if she could show that there were additional items left in the unit that were not placed on the landlord's inventory list, namely a television and she responded that she could not. For this reason, I find that the landlord presented a clear list of abandoned personal items with their application to dispose and for that reason, I find that the tenant does not have the right to seek reimbursement for his abandoned personal belongings that were disposed of as approved by the Director (file # 2023-124).
13. With regards to the tenants claim that the landlord did not do their due diligence to locate him, I accept the landlord's testimony that they used the 2 telephone numbers provided to them by the tenant at the commencement of the tenancy to try to locate him. The landlord's representative testified that she called the Salvation Army Wiseman Centre and was told that they do not have any further contact with the tenant. The tenant's representative stated that the tenant was dealing with a different division of the Salvation Army and that the landlord should made more effort to locate him. I accept that the landlord's efforts to locate the tenant were sufficient and I find that the landlord followed proper protocol as set out in the Act to deal with the abandoned personal property and for that reason, I find that the tenant does not have the right to seek reimbursement for his abandoned personal belongings that were disposed of as approved by the Director (file # 2023-124).
14. I find that the landlord's application to dispose of abandoned personal property was approved in accordance with the Act, and as such the tenant has no grounds to seek reimbursement for the value of those items.

Decision

15. The tenant's claim for Possessions Returned does not succeed.

July 16, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office