

Residential Tenancies Tribunal

Decision 19-474-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:05 pm on 04 September 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the landlord”, also participated.

Issues before the Tribunal

3. The tenant is seeking the following:
 - An order for compensation for inconvenience in the amount of \$11,000.00, and
 - An order for a return of missing possessions valued at \$76,700.00.

Legislation and Policy

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

Background

4. The tenant moved into a rental unit in 1998. At that time, he rented the premises from the landlord’s mother, and when she passed away the landlord took over management of the property. In 2019 the rent was set at \$250.00.

5. On [REDACTED] there was a standoff between the tenant and the police. The tenant stated that it was alleged that he had firearms at the unit and that he had threatened to harm himself and a friend who had been visiting him. The tenant denied those allegations.
6. As a result of this standoff, the tenant was removed from the unit and was sent to the Waterford Hospital to be assessed. The tenant has been residing in his camper-trailer since that date.
7. Both the landlord and tenant agreed at the hearing that the tenancy came to an end on [REDACTED]

Issue 1: Missing Possessions - \$76,700.00

Relevant Submissions

The Tenant's Position

8. The tenant stated that when he was forcibly removed from the rental unit by the police all of his possessions were left behind at the unit. With his application, he provided 2 lists of those possessions.

9. The first is a list of his various vehicles he had kept on the property:

- 1980 GMC RV 20 ft.....\$9000.00
- 2009 Toyota Matrix\$10,000.00
- 2009 Saturn Vue\$9000.00
- 45 ft Reefer summer home\$13,000.00
- 1990 Mercedes Benz convertible ..\$7000.00
- 2006 Smart car.....\$3000.00
- 2 utility trailers\$5000.00
- 1 quad trailer\$2000.00
- 1 quad 2003\$2000.00
- 20 ft cabin cruiser and trailer\$7000.00

- Total\$67,000.00

10. The second is a list of possessions which were left inside the house:

- Dryer\$200.00
- Tool boxes\$1000.00
- Washer.....\$200.00
- Washer spin dryer\$250.00
- Fridge, stove\$300.00
- Pots, pans, dishes.....\$100.00

- Microwave\$150.00
- TV\$300.00
- Laptop\$300.00
- Tables\$200.00
- Pictures\$300.00
- Rods and reels\$1000.00
- Ski-Doo clothing\$1000.00
- Clothing
- Fishing clothing
- Deep freeze\$400.00
- Bed, dresser
- Tools, roof for Mercedes\$2000.00
- Mechanic tools, drill press\$2000.00
- Total\$9700.00

11. With respect to the items on the first list, the tenant stated that he has now removed all of those items from the landlord's property.
12. Regarding the second list, the tenant stated that he has removed most of those items as well. He has removed the washer, the TV, laptop, the tables, some rods and reels, some clothing, his deep freeze, the roof for the Mercedes Benz and the drill press.
13. The tenant also stated that the landlord is not preventing him from removing his items.
14. At the hearing, the tenant complained about the condition of the rental unit and he stated that the roof had been leaking for a number of years and the siding had been blown off of some of the exterior walls. He also stated that rats and mice had been entering the unit and his possessions have become very dilapidated.
15. The tenant also complained that since [REDACTED] different people in the neighbourhood have been going into to the unit and stealing his possessions and he claimed that members of the landlord's family have also stolen some of his possessions.

The Landlord's Position

16. The landlord stated that he was out of the country on [REDACTED] and when he returned on [REDACTED] he met a friend of the tenant, [REDACTED], who wanted to remove the tenant's belongings on his behalf. He testified that [REDACTED] put a lock on the door to the rental unit on that date and gave the landlord a key.

17. The landlord stated that he has only entered the rental on one occasion since that time and that was for the reason of taking pictures of the interior of the unit in preparation for this hearing. Those photographs were submitted at the hearing.
18. The landlord stated that he has not taken possession of any of the listed items and he is not preventing the tenant from entering the property and removing those possessions.
19. The landlord stated that he had been after the tenant for years to clean his property and his photographs show that the rental unit is very dirty and run down. He stated that when the tenant finally has taken what he wants from the unit he is going to seek permission to demolish the building.

Analysis

20. Section 47.(1) of the *Residential Tenancies Act, 2018* outlines the sorts of remedies the Director may order on hearing an application and subsection (f) reads:

Order of director

47. (1) After hearing an application the director may make an order

...

(f) directing a landlord to deliver to a tenant possession of personal property taken in contravention of this Act or the rental agreement or to compensate a tenant for the value of the personal property taken

21. No evidence was presented at the hearing establishing that the landlord had, in contravention of the *Residential Tenancies Act, 2018*, taken any personal property of the tenant or that he had denied the tenant access to his property. And according to the tenant's own testimony, the landlord is not denying him access to the rental unit or to his possessions.
22. As the tenant is already in possession of the bulk of the listed items and as he admits that he is free to enter the property to remove the remainder, his claim has to fail.

Decision

23. The tenant's claim for an order for a return of missing possessions does not succeed.

Issue 2: Compensation for Inconvenience - \$11,000.00

Relevant Submissions

The Tenant's Position

24. The tenant stated that he has been inconvenienced as a result of the fact that this tenancy has come to an end and he submitted the following list of costs he has incurred as a result
- Travel\$1000.00
 - Place to stay\$5000.00
 - Lawyer\$5000.00

 - Total.....\$11,000.00
25. The travel costs the tenant has incurred here are the result of having to try to find a new place to live after the tenancy ended on [REDACTED]. The tenant said he also incurred costs travelling to the doctor and hospitals. No receipts were submitted at the hearing.
26. The tenant also stated that after [REDACTED] he needed to find a place to live and he is seeking \$5000.00 in compensation. He stated that he had not actually incurred that cost as he is now residing in his camper.
27. The tenant also stated that he had incurred costs hiring 2 lawyers to deal with events relating to the [REDACTED] incident. He stated that he had to pay one lawyer about \$1600.00 so that he could get access to a police file concerning the incident on [REDACTED]. He also claimed that he is scheduled to appear in the Supreme Court about this matter and he has also incurred costs to hire a lawyer for that upcoming hearing. No receipts or invoices were submitted at the hearing.

The Landlord's Position

28. The landlord stated that he was "beyond himself" with respect to these claims being made by the tenant. He stated that he was out of the country when the standoff occurred and he was not involved with the police being called to the unit or with the tenant's transfer to the Waterford Hospital.
29. The landlord stated that he was informed that the reason the tenant had to move out of the rental unit was because the police would not let the tenant live by himself any longer.

Analysis

30. I agree with the tenant that he has been inconvenienced as a result of the incident that happened on [REDACTED]. Although no receipts were submitted at the hearing, I also accept the tenant's claim that he had incurred travel costs and lawyer fees.
31. When dealing with issues of inconvenience, section 47.(1) of the *Act* also grants the Director the authority to offer remedies and the relevant subsection states:

Order of director

47. (1) After hearing an application the director may make an order

...

(h) directing a landlord to pay to a tenant an amount as compensation for inconvenience as a result of a contravention of this Act or the rental agreement, and authorizing the tenant to offset that amount against future rent;

32. However, as was the case with the tenant's possessions, I find that the tenant has failed to establish that the landlord had contravened the *Act* on [REDACTED] when the standoff occurred. The landlord was not responsible for calling the police and he was not responsible for their decision to place him in hospital. The landlord was out of the country when these events happened.
33. Accordingly, the tenant's claim does not succeed.

Decision

34. The tenant's claim for compensation for inconvenience does not succeed.

16 September 2019

Date

[REDACTED]
John R. Cook
Residential Tenancies Tribunal