



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNDC, FF

Introduction

This hearing was scheduled to deal with the Tenants' application for a monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (Act), Regulation or tenancy agreement; and to recover the filing fee from the Landlord for the cost of filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Tenants are entitled to compensation for being required to vacate the rental unit pursuant to section 49 of the Act and if they are entitled to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord and the Tenant agree that this tenancy ended on June 17, 2008 and that the Tenants were paying monthly rent of \$750.00 at the end of the tenancy.

The Landlord and the Tenant agree that the Landlord served the Tenants with a Two Month Notice to End Tenancy, pursuant to section 49 of the Act, on May 01, 2008. The Notice indicated that the Landlord had all of the permits necessary to demolish or repair the rental unit in a manner that requires the rental unit to be vacant. The Notice indicated that the Tenants must vacate the rental unit by August 01, 2008.

The Landlord and the Tenant agree that on June 07, 2008, the Tenants served the Landlord with written notice of their intent to vacate the rental unit on June 17, 2008. The parties agree that the Tenants did vacate the rental unit on June 17, 2008.

The Landlord and the Tenant agree that the security deposit paid by the Tenants was refunded to them on June 18, 2008. The parties agree that the Landlord paid \$325.00 to the Tenants on June 18, 2008, as a refund for the rent they had paid for the period between June 18, 2008 and June 30, 2008.

The Landlord and the Tenant agree that the Landlord did not compensate the Tenant in any other manner for being required to vacate the rental unit.

The Landlord stated that he did not pay the Tenants any additional compensation for vacating the rental unit because the Tenants damaged the rental unit. The Tenant indicated that he did not wish, at this time, to reach a settlement agreement in regards to damages to the rental unit. Neither party was permitted to present evidence in regards to the issue of damages to the rental unit, as it is not an issue that is in dispute with regards to the Tenant's Application for Dispute Resolution.

Analysis

Section 51(1) of the Act stipulates that a tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement. I find that the Tenants did receive a notice to end a tenancy under section 49 of the Act and that they are, therefore, entitled to compensation in the amount of \$750.00, which is the equivalent of one month's rent.

I find that the Tenants are entitled to compensation under section 51, regardless of the fact that they vacated the rental unit early, as authorized by section 50(3) of the Act.

I find that the Tenant's application has merit and that they are entitled to recover the cost of filing this Application for Dispute Resolution from the Landlord.

The Landlord retains the right to file his own Application for Dispute Resolution in regards to his claim for damages to the rental unit.

Conclusion

I find that the Tenants have established a monetary claim of \$800.00, which is comprised of \$750.00 as compensation for being required to vacate the rental unit and \$50.00 in compensation for the cost of filing this Application.

Based on these determinations I grant the Tenant a monetary Order in the amount of \$800.00. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of the Court.

Date of Decision: October 18, 2008