



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened upon an application by the landlord seeking:

1. A monetary order for compensation for damage or loss;
2. An order to be allowed to retain the security deposit; and
3. Recovery of the filing fee.

Both parties appeared at the hearing and gave evidence under oath.

Background and Evidence

The landlord submitted a tenancy agreement signed by the parties setting out that the tenant agreed to rent the premises from the landlord commencing October 1, 2009 for a six month fixed term. At the end of the fixed term the tenancy was to end. The agreement indicates that the tenant paid a security deposit of \$350.00 on September 23, 2009. The landlord says the tenant called her on September 30, 2009 to advise that she changed her mind and would not be moving in. The landlord says she seeks a monetary order for half of a month's rent in the sum of \$350.00 which sum would be covered by the security deposit she currently holds on behalf of the tenant.

The tenant agrees that she entered into the tenancy agreement and then called the landlord on September 30, 2009 to say she no longer wished to move in. However, the tenant says that on October 1, 2009 she had a change of mind and decided she would move in. The tenant says that she called the landlord to advise the landlord of this change of mind and the landlord's phone was disconnected. The tenant says she was

10 hours drive from the rental unit and was not prepared to drive to the rental unit with all of her goods and move in without being able to confirm the arrangements with the landlord.

On October 2, 2009 the tenant sent an email to the landlord advising that she was now willing to move in if the landlord would have her. If not, the tenant requested that the landlord return her deposit. The landlord said her internet connection was not working and she did not receive the tenant's email until October 6, 2009. The landlord responded that she was now "...hesitant to rent the house to you for obvious reasons." Further the landlord noted that she had turned away three families who had also wished to rent the premises. The landlord says that the community in which the rental unit is located is a small community that does not draw many for the winter months and the likelihood of finding a tenant until spring was doubtful but she remained reluctant to recommence the tenancy because she was finding the tenant to be unreliable. On October 9, 2009 the landlord filed an Application to retain the deposit in lieu of notice. The landlord noted that she did not apply for a full month's rent as she might have done.

Findings

The tenant entered into a 6 month fixed term tenancy agreement with the landlord and then gave notice that she did not intend to move in. While she may have later changed her mind the tenant did not take steps to move in. I find it reasonable that the landlord became reluctant to recommence the tenancy with this tenant, who, I find had demonstrated her unreliability by reneging on a signed agreement. In the end, having entered into a tenancy agreement the tenant was bound by the provisions of the *Residential Tenancy Act* and she should have supplied one month's notice. In this case the landlord is seeking half a month's rent in lieu of notice and I find that this is reasonable in the circumstances.

Conclusion

The landlord is granted permission to retain the security deposit in lieu of notice. As the landlord has been successful in this applicant I will also award the landlord a monetary Order for \$50.00.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.