

## **Decision**

**Dispute Codes:** MNDC, FF

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether the tenant is entitled to the above under the Act, regulation or tenancy agreement

### **Background and Evidence**

There is no written tenancy agreement in evidence for this tenancy which began on or about September 1, 2006. Towards the end of tenancy, rent in the amount of \$2,400.00 was payable in advance on the first day of each month.

Pursuant to section 49 of the Act which addresses **Landlord's notice: landlord's use of property**, the landlords issued a 2 month notice to end tenancy for landlord's use of property dated June 30, 2009. The tenant found alternate accommodation and vacated the unit on or about July 31, 2009. The landlords paid compensation to the tenant in the amount of 1 month's rent, pursuant to the statutory provisions set out in section 51 of the Act which speaks to **Tenant's compensation: section 49 notice**.

It was later determined that the family member who had planned to move into the unit was the landlord's niece, whereas section 49(1) of the Act identifies "close family member" for the purposes of this particular notice to end tenancy as, "the individual's father, mother, spouse or child, or the father, mother or child of that individual's spouse."

Further to the above, the landlord's niece had a change in plans which led to her not actually moving into the unit. In the result, the tenant seeks additional compensation under the Act.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

### **Analysis**

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the landlords will pay to the tenant the full amount of 1 month's rent;
- that the above payment will be made by way of either certified cheque, bank draft or money order;
- that the above payment will be mailed to the tenant at his address as provided to the landlord during the hearing;
- that the above payment will be put into the mail by no later than midnight, Monday, June 21, 2010;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

As the parties successfully negotiated a settlement of their dispute, I find that the tenant is entitled to recover \$25.00, which is half the filing fee. Accordingly, I grant the tenant a monetary order under section 67 of the Act in the total amount of \$2,425.00 (\$2,400.00 + \$25.00).

### **Conclusion**

Pursuant to the above agreement reached between the parties, I hereby issue a monetary order in favour of the tenant in the amount of **\$2,425.00**. Should it be necessary, this order may be served on the landlords, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 15, 2010

---

Dispute Resolution Officer