

DECISION

Dispute Codes: MNDC and FF

Introduction

This application was brought by the tenant on January 15, 2010 seeking a Monetary Order for return of one-half month's rent the landlord did not return after ending the tenancy under a Notice to End Tenancy for landlord use under section 49 of the *Act*. The tenant also sought to recover the filing fee for this proceeding.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for the return of one-half month's rent and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on April 15, 2007 and ended on January 15, 2009 under a two-month Notice to End Tenancy for landlord use dated November 11, 2008 and setting an end of tenancy date of January 16, 2009. As a matter of note, the end date should have been and is automatically corrected by section 53 of the Act to January 31, 2009. In any event, the tenant invoked her right under section 50 of the Act and gave 10-day notice for January 15, 2009

Rent was \$585 per month.

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During the hearing, the tenant gave evidence that she had paid the full rent for December 2008 and had not paid rent for the two weeks in January. Therefore, she seeks return of half of the December rent to complete recovery of the full month's free rent to which she is entitled under section 51 of the Act.

The landlord gave evidence that the tenant had left some firewood on the property beyond the end date and that there was some dispute over the BC Hydro account.

Analysis

Section 51 of the *Act* provides that a tenant who receives a Notice to End Tenancy for landlord use under section 49 of the *Act* is entitled to receive the last month's rent free.

I find as fact that the tenant received only half of that entitlement by way of free rent for the first two weeks of January 2009 and that the landlord must return the rent paid for the last two weeks of December 2008.

While the landlord may have had a cause of action over the firewood/hydro issue, he did not make application for damages and the claim cannot be considered under the tenant's application.

Therefore, I find that the tenant is entitled to a Monetary Order for one-half month's rent in the amount of \$292.50 and, as her application has succeeded on its merits, she is entitled to recover the \$50 filing fee for this proceeding from the landlord for a total of \$342.50.

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for **\$342.50**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

June 30, 2010