

## **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.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the service address noted on the Application, on March 26, 2010. A Canada Post receipt was submitted to corroborate this statement. The Tenant stated that the documents were returned to her by Canada Post. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

### **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 Tenant stated that this tenancy began on August 01, 2009 and that they were paying monthly rent of \$1,300.00 at the end of the tenancy.

The Tenant stated that the Landlord served the Tenants with a Two Month Notice to End Tenancy, pursuant to section 49 of the *Act*, which indicated that the Tenants must vacate the rental unit by April 30, 2010.

The Tenant stated that they paid their rent for March of 2010; that on March 01, 2010 the Tenants personally served the Landlord with written notice of their intent to vacate the rental unit on March 15, 2010; and that the Tenants did vacate the rental unit on March 15, 2010.

The Tenant stated that the Landlord did not refund any portion of the rent they paid for March and that the Landlord did not pay the Landlord the equivalent of one month's rent.

## 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. In the absence of evidence to the contrary, I find that the Tenants did receive notice to end a tenancy pursuant to section 49 of the Act and that they are, therefore, entitled to compensation in the amount of \$1,300.00, 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.

Section 50(1) of the Act stipulates that when a landlord gives notice pursuant to section 49 of the Act, the tenant may end the tenancy early by giving at least ten days' written notice that is earlier than the effective date of the tenant's notice. I find that the Tenants complied with section 50(1) of the Act when they gave the Landlord written notice, on March 01, 2010, of their intent to vacate on March 15, 2010.

Section 50(2) of the Act stipulates that if a tenant has paid rent before giving notice pursuant to section 50(1) of the Act, the landlord must refund any rent paid for a period after the effective date of the tenant's notice. In the absence of evidence to the contrary I find that the Tenants paid \$1,300.00 in rent for March of 2010 and that they vacated the rental unit on March 15, 2010. On this basis, I find that the Tenants are entitled to a refund of the rent they paid for the period between March 16, 2010 and March 31, 2010, which is sixteen days. Calculated at a daily rate of \$41.93, I find that the Tenants are entitled to a rent refund of \$670.88.

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

## Conclusion

I find that the Tenants have established a monetary claim of \$2,020.88, which is comprised of a rent refund of \$670.88, \$1,300.00 in 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 \$2,020.88. 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 21, 2010.

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Dispute Resolution Officer