



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking monetary orders for return of all or part of the security deposit and for monetary compensation under the Act, and to recover the filing fee for the Application.

The Tenant served the Landlord with the Notice of Hearing by registered mail, sent on July 2, 2010. The envelope sent to the Landlord's address was returned "unclaimed" and the Tenant entered this into evidence. The Landlord did not appear at the hearing. I note that refusal or neglect to collect registered mail is not a ground for review under the Act. I find the Landlord has been served in accordance with the Act.

The Tenant appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Is the Tenant entitled to the monetary orders sought?

Background and Evidence

The Tenant testified that on May 31, 2010, he had a mental health problem and was involved in a domestic dispute with his former spouse. The former spouse called the police and the Tenant was taken into custody and committed to hospital for a 24 hour period and was then released.

When the Tenant returned to the rental unit the Landlord would not allow him to enter and told the Tenant the tenancy was over. The Tenant vacated the rental unit, although he was not allowed on the property, with help from family members.

The Tenant had paid a security deposit of \$350.00 to the Landlord and had paid \$600.00 for June 2010 rent. The Landlord returned most of this money to the Tenant, although the Landlord kept \$276.00 of the Tenant's money, allegedly telling the Tenant it was for storage costs.

The Tenant seeks the return of \$276.00 plus the \$50.00 filing fee for the Application.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Landlord has breached the Act and must return to the Tenant the sum of \$276.00, along with the filing fee for the Application.

There was no evidence that the Landlord had ended the tenancy in accordance with section 44 of the Act, which is the only way a tenancy may be ended in British Columbia.

Furthermore, the Landlord had no right or authority to hold the Tenant's property, or prevent him from entering the rental unit under the Act. Therefore, I find that the Landlord had no right under the Act to charge the Tenant a storage fee for his property.

I find the Landlord's breaches of the Act caused the Tenant to suffer a loss, and therefore, pursuant to section 67 of the Act, I grant the Tenant a monetary order for **\$326.00**, payable by the Landlord. This order may be enforced in the Provincial Court of British Columbia.

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: November 15, 2010.

Dispute Resolution Officer