



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, FF

Introduction

This was the hearing of the tenant's application for a monetary order. The hearing was conducted by conference call. The tenant and the landlords participated in the hearing

Issues(s) to be Decided

Is the tenant entitled to a monetary order in the amount claimed?

Background and Evidence

The rental unit is a suite in the lower portion of the landlord's house. The tenancy began November 1, 2008 for a fixed term of one year and thereafter on a month to month basis. Monthly rent in the amount of \$1,100.00 was payable on the first of each month. Utilities were included in the rent.

The tenant testified that she made a request to the landlord to have her friend's son stay with her while he was attending university for the eight month period from September, 2009 to April 30, 2010. According to the tenant the landlord agreed, but after the student moved into the rental unit the landlord requested an additional \$100.00 per month for extra utilities. The tenant offered a lower amount but the landlord insisted on the sum of \$100.00. The tenant paid the additional sum for the following eight months of the tenancy. The landlord said that he made it clear that there would be a charge for an additional occupant when the tenant proposed it.

The tenancy ended in April, 2010. Before the tenant moved out of the rental unit she gave the landlords a written request for payment of a sum of money for work and supplies she claimed from them for work done to the patio and fence at the rental property. In her written proposal the tenant claimed \$360.15 less the sum of \$100.00 being the additional charge for her student occupant. The landlord agreed to the proposal and paid the tenant the sum of \$260.15. The tenant signed a form of receipt for the payment wherein she acknowledged as follows:

This is the final payment I shall receive and no further claims shall be made. With the exception of the damage deposit, there are no further funds to be disbursed or paid.

The tenant wrote the word "patio" on the form above the words: "no further claims shall be made" when she returned the form to the landlords.

The evidence at the hearing established that the student paid monthly rent to the tenant during his occupancy of the rental unit.

The tenant filed her application for dispute resolution on August 30, 2010.

The tenant referred to an excerpt from a guide for landlords and tenants that contained the following statement:

The tenancy Agreement can indicate the number of people permitted to live in the rental unit. If the landlord plans to increase the rent when more people move in, the amount must be written in the tenancy agreement at the start of the tenancy.

Analysis and Conclusion

The passage referred to by the tenant was taken from a publication entitled: "Residential Tenancy Act A Guide for Landlords and Tenants in British Columbia". The first sentence in the introduction to the Guide states the following caveat: "This guide provides general information about the Residential Tenancy Act and Regulation. Where the Act and this guide differ, the Act prevails."

There is no provision in the *Residential Tenancy Act* that requires a landlord to specify an amount to be charged for additional occupants or that restricts him from imposing an additional charge for extra occupants if an amount has not been specified in the tenancy agreement. Under the original tenancy agreement the tenant was named as the sole occupant of the rental unit and the landlord was not obliged to agree to allow additional occupants to reside in the rental unit. The statement referred to in the Guide is inaccurate and misleading. The landlord agreed to allow the additional occupant for an extra fee and the tenant accepted the arrangement and paid the required amount for eight months. There was nothing untoward or improper in this arrangement and the tenant's belated claim for reimbursement is without merit. Further I find that the receipt signed by the tenant operated as a release and specified that the tenant, by accepting the payment of \$260.15, agreed that no further claims would be made. I find that this operates as a bar to this claim despite the tenant's somewhat enigmatic interlineation of the word "patio" on that form. Had the tenant intended to exclude this claim from the effect of the release she should have stated it with precision as not included; this she did not do. The tenant has improperly split her claims arising out of the tenancy and attempted to deal with them piecemeal because she knew that the landlord would not agree to reimburse her for the amounts charged for her additional occupant as part of a settlement. She sought to settle one non contentious matter without disclosing that she intended to pursue the other matter that was sure to be disputed because the landlord would not have been disposed to settle the one matter knowing the tenant's intention to pursue the other.

I have found the claim without merit and barred by the receipt and release that she signed. The tenant's claim is dismissed without leave to reapply.

Dated: January 5, 2011
