

Decision

Dispute Codes: MNDC, FF

Introduction

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

Despite mailing of the application for dispute resolution and notice of hearing by way of registered mail, the landlord's agent did not appear. Included in the tenants' evidence is the Canada Post tracking number for the registered mailing.

Issues to be decided

- Whether the tenants are entitled to the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on November 1, 2007. Monthly rent was \$1,250.00. A security deposit of \$625.00 and a pet damage deposit of \$200.00 were collected.

Pursuant to section 49 of the Act (**Landlord's notice: landlord's use of property**), the landlord issued a 2 month notice to end tenancy dated April 28, 2008. A copy of the notice was submitted into evidence. The reason shown on the notice for its issuance is as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

Thereafter, the tenants vacated the unit by June 30, 2008.

With the passage of time, the tenants determined that the unit was not ever occupied as the notice indicates, as above, that it would be. Accordingly, pursuant to section 51 of the Act (**Tenant's compensation: section 49 notice**), the tenants seek compensation "equivalent of double the monthly rent payable under the tenancy agreement."

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/

Section 60 of the Act speaks to the **Latest time application for dispute resolution can be made**, and provides in part as follows:

60(1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

In the circumstances of this dispute, the tenancy ended on June 30, 2008, and the tenants filed their application for dispute resolution 28 months later on November 1, 2010. In the result, as the application was made more than 2 years after the end of tenancy, the application is late and the tenants are out of time. The application must therefore be dismissed in its entirety.

Conclusion

The application is hereby dismissed.

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*.

DATE: March 8, 2011

Residential Tenancy Branch