



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MNDC, FF

Introduction

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

The tenant testified that the aspect of his original application which concerned the double return of the security deposit had been resolved. Further, the tenant stated that he no longer wished to seek compensation related to what he alleged was his inability to use the garage during a 10 month period of his tenancy.

The parties agreed that the style of cause (naming) for the landlords will be amended from how it is shown on the tenant's application and, instead, will be as it appears on the cover sheet of this decision. The parties also agreed that the landlords' agent will be removed from the tenant's application.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the original fixed term of tenancy was from November 1, 1997 to October 31, 1998. Thereafter, tenancy continued on a month-to-month basis. A security deposit of \$750.00 was collected near the start of tenancy, and by the end of tenancy the monthly rent was \$1,712.00.

Independent of the tenant's application, the landlords also filed a related application for dispute resolution. The landlords sought a monetary order as compensation for damage to the unit, compensation for damage or loss under the Act, regulation or tenancy agreement, retention of the security deposit, and recovery of the filing fee. A hearing was scheduled to occur on November 30, 2010. The tenant appeared at that

hearing, however, as the landlords did not appear their application was dismissed without leave to reapply.

The tenancy ended on June 30, 2010 pursuant to the landlords' issuance of a 2 month notice to end tenancy for landlord's use of property dated April 21, 2010. 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.

The tenant takes the position that after the passage of what is now approximately 9 months following the end of tenancy, the unit has still not been used for the purpose(s) indicated in the notice. Accordingly, the tenant argues that he is entitled to compensation in the amount of 2 months' rent pursuant to section 51 of the Act (**Tenant's compensation: section 49 notice**).

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

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 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that through their legal counsel, the landlords will pay \$1,762.00 to the tenant, and that a monetary order will be issued in favour of the tenant to this effect;
- that the above payment is comprised of 1 month's rent of \$1,712.00 and the \$50.00 filing fee;
- that the above payment will be made by way of cheque;
- that delivery of the above cheque to the tenant will be made by way of either Courier or Canada Post Registered Mail;
- that the above payment will be delivered to the tenant by not later than midnight, Monday, April 18, 2011;

- that the landlords' legal counsel or one of his associates / office staff will contact the tenant by telephone in order to provide advance confirmation of the time when the cheque is likely to be delivered to him either by Courier or by Canada Post Registered Mail;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$1,762.00**. Should it be necessary, this order may be served on the landlords, filed in the Small Claims Court and enforced as an order of that 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*.

DATE: April 4, 2011

Residential Tenancy Branch