



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, OLC

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 for an Order requiring the Landlord to comply with the Act.

Both parties were represented at the hearing. They were provided with the opportunity to present oral evidence, to ask questions, and to make submissions to me. Neither party served the other party with evidence in regards to this dispute. The Landlord submitted documents to the Residential Tenancy Branch however they were not considered as they were not served on the Tenant.

Issue(s) to be Decided

The issue to be decided is whether the Tenants are entitled to compensation for being required to vacate the rental unit pursuant to section 49 of the Act.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began sometime in 2002.

At the outset of the hearing the Landlord and the Tenant agreed that the Tenants were paying monthly rent of \$1,300.00 during the latter portion of this tenancy. Later in the hearing the Tenant stated that she made a mistake and that she was actually paying \$1,400.00 in rent during the latter portion of the tenancy.

The Landlord and the Tenant agree that the Landlord served the Tenants with a Two Month Notice to End Tenancy, pursuant to section 49 of the Act, in February of 2011; that the Notice declared that the rental unit would be occupied by the landlord's spouse or a close family member of the landlord or the landlord's spouse; that the Landlord altered the form to include a declaration that house is for sale; that the Notice declared that the Tenants must vacate by March 31, 2011; that the Tenants did vacate on March 30, 2011 or March 31, 2011; that the Tenants paid rent for March of 2011; and that the Landlord did not refund any portion of the rent paid for March.

The Tenant was unable to explain why she is seeking compensation in the amount of \$2,800.00, other than to state that Residential Tenancy Branch staff advised her that she could request this amount.

Analysis

There is a general legal principle that places the burden of proving a fact on the person who is claiming compensation. In these circumstances, the burden of proof rests with the Tenant and I find that the Tenant has submitted insufficient evidence to show that the rent during the latter portion of this tenancy was \$1,400.00. In reaching this conclusion I was heavily influenced by the absence of evidence that corroborates the Tenant's statement that the rent was \$1,400.00 during the latter portion of the tenancy or that refutes the Landlord's statement that the rent was \$1,300.00 during the latter portion of the tenancy. As the parties agree that the Tenant was paying at least \$1,300.00, I find that monthly rent was \$1,300.00.

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. I find that the Tenants did receive notice to end a tenancy under 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.

Conclusion

I find that the Tenants have established a monetary claim of \$1,300.00, which represents compensation pursuant to section 51(1). Based on these determinations I grant the Tenants a monetary Order in the amount of \$1,300.00. 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 15, 2011.

Residential Tenancy Branch