



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC; FF

Introduction

This is the Tenant's application for a monetary order for compensation for damage or loss under the Residential Tenancy Act and to recover the cost of the filing fee from the Landlord.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that on March 29, 2011, she mailed the Landlord with the Notice of Hearing Documents, by registered mail, to the Landlord's address. She testified that the documents were returned to her "refused". The Tenant provided a copy of the front and back of the registered mail envelop in evidence.

Based on the Tenant's oral testimony and documentary evidence, I am satisfied that the Landlord was duly served with the Notice of Hearing documents. Section 90 of the Act deems service in this manner to be effected 5 days after mailing the documents, whether or not the recipient chooses to accept service.

Despite being served with the Notice of Hearing documents, the Landlord did not sign into the teleconference and the Hearing continued in his absence.

Preliminary Matter

At the outset of the Hearing the Tenant applied to amend her application to include the name she commonly goes by, which is also the name that is indicated on the Notice to End Tenancy issued June 27, 2009.

I granted the Tenant's application to include her other name.

Issues to be Decided

- Is the Tenant entitled to a monetary order for double the amount of the rent, pursuant to the provisions of Section 51(2) of the Act?

Background and Evidence

The Tenant gave the following testimony and documentary evidence:

The rental unit is the basement suite of a house. Monthly rent was \$650.00, due on the first day of each month, and included utilities.

This tenancy ended on August 31, 2009, as a result of a Two Month Notice to End Tenancy (the "Notice") issued on June 27, 2009. A copy of the Notice was provided in evidence. The reason shown on the Notice for ending the tenancy was:

The rental unit will be occupied by the Landlord or the Landlord's spouse or close family member.

The Tenant did not dispute the Notice and received one month's free rent in accordance with the provisions of Section 51(1) of the Act.

The Landlord, or a close family member, did not move into the rental unit. The basement suite has been rented to the upstairs tenant's son, girlfriend and baby. The upstairs tenant is not related to the Landlord. The Tenant provided a copy of a letter from a neighbour of the rental unit in evidence, in support of her claim.

Analysis

I have considered all testimony and documentary evidence that met the requirements of the rules of procedure. However, I have referred only to the evidence that was relevant to the Tenant's application in this Decision.

Section 51(2) of the Act provides that if steps have not been taken to accomplish the stated purpose for ending the tenancy within a reasonable period after the effective date of the Notice, the Landlord **must** pay the Tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

Based on the undisputed testimony of the Tenant, I find that the Landlord, or close family member, did not occupy the rental unit. The tenancy ended on August 31, 2009, and I find that more than a reasonable amount of time has passed since the end of the tenancy for the Landlord to accomplish the stated purpose for ending the tenancy.

Therefore, I grant the Tenant's application.

The Tenant has been successful in her application and is entitled to recover the cost of the \$50.00 filing fee from the Landlord.

Conclusion

I hereby provide the Tenant a Monetary Order in the amount of **\$1,350.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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*.

Dated: July 07, 2011.

Residential Tenancy Branch