



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenant for money owed or compensation due to damage or loss and recovery of the filing fee.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

The tenant testified that in March 2012 she had been served with a 2 month notice for landlord's use of property as the property had been sold. The tenant then, in accordance with the Act, gave the landlord 10 day notice by email on March 12, 2012 that she would be vacating the rental unit March 25, 2012. The tenant stated that as she vacated the rental unit prior to the end of the month she believes that the landlord must reimburse her for the period of March 25 through March 31, 2012.

The landlord testified that the tenant did not give her proper notice and that was why the landlord had not reimbursed the tenant. The landlord did acknowledged that she and the tenant often communicated by email which the tenant confirmed.

The landlord stated that the tenant had also left discarded items in the rental unit, shed and yard which the landlord had to have hauled away at her expense. The tenant stated that the items left behind had been on the property prior to her tenancy and that she had no intention of hauling items to the dump that did not belong to her.

Analysis

Based on the documentary evidence and testimony of the parties I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to a monetary order for loss.

The tenant was served with a 2 month notice and per the Act, exercised her right to give the landlord 10 days notice to vacate prior to the effective end date of the notice. And while the landlord in the hearing claimed that the tenant's notice was not valid, the email chain clearly indicates the landlord as accepting the notice and that the landlord never responds that the notice is not proper. Both parties also acknowledged that they often used email to communicate.

Therefore I accept the tenant's notice as valid and section 50 of the Act applies in regards to the tenant being entitled to 6 days of reimbursed rent. ($\$700.00/31 \text{ days} = \$25.58 \text{ per day} \times 6 \text{ days} = \153.48)

Accordingly I find that the tenant is entitled to a monetary order for \$153.48.

Residential Tenancy Act section 50 Tenant may end tenancy early following notice under certain sections

(1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 *[landlord's use of property]* or 49.1 *[landlord's notice: tenant ceases to qualify]*, the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and

(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 *[tenant's compensation: section 49 notice]*.

As the tenant has been successful in their application the tenant is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the tenant has established a monetary claim for \$153.48 in return of rent owed. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant a monetary order under section 67 for the amount of **\$203.48**.

If the amount is not paid by the landlord(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 19, 2012

Residential Tenancy Branch