



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an application by the Landlord for a monetary order for unpaid rent and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified, and provided a postal receipt in evidence, that he had served the Tenants with the Notice of Hearing and the Application by registered mail, sent on June 14, 2012. Despite this, the Tenants did not appear. I find the Tenants were duly served in accordance with the Act. I also note that refusal or neglect to accept registered mail is not a ground for review under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

The parties had been to one prior hearing, in which the Tenants received an order for return of double the security deposit.

Issues(s) to be Decided

Did the Tenants breach the term lease, entitling the Landlord to monetary compensation?

Background and Evidence

The Agent for the Landlord testified that on October 30, 2010, the parties entered into a one year term tenancy agreement.

On June 1, 2011, the Tenants moved into a different rental unit owned by the Landlord. At the time the Tenants moved into the different unit the parties amended the tenancy agreement to show the new tenancy starting on June 1, 2011. The rent was also changed to \$1,300.00 for the different unit and the security deposit was increased. The one year term was unaltered by the parties.

About the end of March 2012, the Tenants vacated the rental unit.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenants breached the tenancy agreement and the Act, without authority to do so. I find this was a one year lease, starting on June 1, 2011, and therefore, was to end on May 31, 2012.

The Tenancy Agreement is a binding legal contract which both parties must abide by.

In British Columbia a tenancy may only end if done so in accordance with the Act.

Under section 45(3) of the Act the Tenants could not end the tenancy earlier than the fixed term one year, unless there was some authority under the Act for them to do so. For example, if the Tenants felt the Landlord was in breach of a material term of the tenancy agreement, they could have written to the Landlord with a request to correct the breach and provide a reasonable time to do so. If the Landlord did not correct the problem within that time, then the Tenants might have ended the tenancy by giving notice earlier than the end of the fixed term.

Here the Tenants have provided no evidence they had authority under the Act to end the tenancy before the end of the one year term.

The Landlord mitigated the loss, as required by the Act, and had new renters move into the rental unit on May 1, 2012.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Landlord is entitled to one month of lost rent due to the Tenants' breach. Furthermore, I find that the Tenants shall pay the Landlord the application fee for the filing of this claim.

Therefore, I find that the Landlord has established a total monetary claim of **\$1,350.00**, comprised of \$1,300.00 for one month rent and the \$50.00 fee paid by the Landlord for this application.

I grant the Landlord an order under section 67 for \$1,350.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: August 15, 2012.

Residential Tenancy Branch