



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing concerns the tenant's application 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 in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, what eventually became a month-to-month tenancy began on April 1, 2008. Monthly rent of \$1,050.00 was due and payable in advance on the first day of each month, and a security deposit of \$525.00 was collected. There is no move-in condition inspection report in evidence.

While there are 2 tenants named on the tenancy agreement, and 2 tenants identified in correspondence from the tenants to the landlord, only 1 of the tenants is named on the application for dispute resolution. Accordingly, reference in this decision to the tenants is by way of the singular, "tenant."

By letter dated January 14, 2012, the tenant gave notice to end the tenancy effective February 15, 2012. Subsequently, while the tenant paid rent in full for February, she vacated the unit on February 4, 2012, and a move-out condition inspection report was completed with the landlord's agent on February 10, 2012. On the move-out condition inspection report it is noted that the unit keys had been returned and, further, that the unit had been re-rented effective February 15, 2012. The tenant's forwarding address is also documented on the move-out condition inspection report.

Thereafter, by letter to the landlord dated February 20, 2012, the tenant requested the return of the security deposit and again provided her forwarding address. Following that, by cheque dated February 22, 2012 the landlord repaid the security deposit.

Later, by letter to the landlord dated February 25, 2012, in view of the fact that the landlord had successfully re-rented the unit from February 15, 2012, the tenant requested reimbursement of rent paid for the latter half of February 2012.

The tenant was clear in her testimony that the landlord's agent gave no assurances that any consideration would be given to reimbursement of rent, as above, when they met at the unit to complete the move-out condition inspection. And for his part, the landlord takes the position that the tenant freely chose to vacate the unit before the end of February, and that the Act does not require that he reimburse the half month's rent simply because he was able to re-rent the unit from February 15, 2012.

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 45 of the Act speaks to **Tenant's notice**, in part as follows:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the documentary evidence and testimony, I find that as notice to end this periodic tenancy was given on January 14, 2012, pursuant to the tenancy agreement and the above statutory provisions the earliest date when tenancy could end was February 29, 2012. Further, absent an agreement between the parties to the contrary, the tenants were obligated to pay rent in full to the end of February. The tenant has not claimed that she was coerced by the landlord or the landlord's agent in her decision to vacate the unit on February 4, 2012. Neither has the tenant claimed that she was in any way pressured by the landlord or by the landlord's agent to return possession of the

unit to the landlord on February 10, 2012, at which time the move-out condition inspection & report were completed, and all keys returned.

While a promise could have been made or an agreement reached between the parties, pursuant to which the tenant would be reimbursed for half of 1 month's rent for February in the event that new tenants were found, no such promise was made and no such agreement was reached.

In summary, I find that the tenant chose to return possession of the unit to the landlord effective February 10, 2012 and, in the absence of any agreement between the parties to the contrary, there is no provision in the Act which requires the landlord to reimburse the tenant as a result of his ability to collect twice on rent for the period of February 15 to 29, 2012. The tenant's application for a monetary order in this regard must therefore be dismissed.

As the tenant has not succeeded with the principal aspect of her application, the application to recover the filing fee is also hereby dismissed.

Conclusion

Following from all of the above, the tenant's application is hereby dismissed.

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: August 17, 2012.

Residential Tenancy Branch