



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss and to recover the fee for filing this application.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord, via registered mail, at the service address noted on the Application, on September 30, 2012. The Tenant stated that he cannot find a Canada Post receipt for the envelope that was mailed on this date.

The Tenant stated that copies of the amended Application for Dispute Resolution, the Notice of Hearing, and documents that Tenant wishes to rely upon as evidence for these proceedings were sent to the Landlord, via registered mail, at the service address noted on the Application, on November 27, 2012. The tenant cited a Canada Post tracking number that corroborates this statement.

In the absence of evidence to the contrary, I find that all of the aforementioned documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

In an undated letter to the Landlord, which was served to the Landlord as evidence on November 27, 2012, the Tenant clearly informed the Landlord that he wants his rent from June refunded and he wants compensation for a failed transaction fee, in the amount of \$42.50.

Issue(s) to be Decided

Is the Tenant entitled to a monetary Order and to recover the fee for filing this Application for Dispute Resolution?

Background and Evidence

The Tenant stated that he entered into a tenancy agreement with the Landlord that required him and a co-tenant to pay monthly rent of \$774.00 by the first day of each

month, and that rent of \$387.00 was paid, via automatic electronic transfer, for June of 2012.

The Tenant stated that the Landlord personally served his co-tenant with a Two Month Notice to End Tenancy, pursuant to section 49 of the *Act*, on April 27, 2012. The Notice declared that all of the conditions for sale of the rental unit had been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends to occupy the rental unit. The Notice declared that the Tenant must vacate the rental unit by July 01, 2012.

The Tenant stated that the rental unit was vacated on July 01, 2012 but the rent paid for June was not refunded.

The Tenant stated that the Landlord processed a rent payment of \$387.00, via automatic electronic transfer, for July of 2012. He stated that the rent payment was withdrawn from his account, which resulted in a NSF fee of \$42.50 being charged to his account. The Tenant submitted a copy of his bank statement that corroborates this testimony.

Analysis

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 Tenant did receive notice to end a tenancy under section 49 of the *Act* and that the Tenant is, therefore, entitled to compensation in the amount of \$774.00, which is the equivalent of one month's rent.

As the Tenant only paid \$387.00 in rent for June of 2012 and the unit was occupied for the month of June, I find that the Tenant has received the equivalent of ½ of one month's rent. I find that the Landlord must now pay the Tenant the other ½ of one month's rent, which is \$387.00.

I find that the Landlord attempted to collect rent that was not due for July and that the Landlord's actions resulted in the Tenant incurring a NSF charge of \$42.50. I therefore find, pursuant to section 62(3) of the *Act*, that the Landlord must compensate the Tenant for this fee.

I find that the Tenant's application has merit and that the Tenant is entitled to recover the cost of filing this Application for Dispute Resolution from the Landlord.

Conclusion

I find that the Tenant has established a monetary claim of \$479.50, which is comprised of \$387.00 as compensation for being required to vacate the rental unit, a NSF fee of

\$42.50, and \$50.00 in compensation for the cost of filing this Application.

Based on these determinations I grant the Tenant a monetary Order in the amount of \$479.50. 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: December 18, 2012.

, Arbitrator
Residential Tenancy Branch