



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the landlords: MND, MNSD, MNDC, FF
For the tenant: MNSD, FF

Introduction

This was the reconvened hearing dealing with the parties' respective applications for dispute resolution under the Residential Tenancy Act (the "Act").

The landlords applied for authority to retain the tenant's security deposit, for a monetary order for money owed or compensation for damage or loss and alleged damage to the rental unit, and for recovery of the filing fee.

The tenant applied for a monetary order for a return of his security deposit and for recovery of the filing fee.

The hearing, which is based upon the landlords' successful application for review consideration of a Decision issued on May 31, 2013 by another Arbitrator, began on July 5, and an Interim Decision was entered on July 9, 2013, which should be read in conjunction with this Decision.

Due to the length of the hearing on July 5, 2013, in which only a portion of the landlords' application for dispute resolution was considered, it was adjourned until this date to consider the balance of the landlords' application and the tenant's application.

The parties were also advised in the Interim Decision that the adjourned, reconvened hearing was simply a continuation of the present hearing begun on July 5, 2013.

At the beginning of this hearing, the landlords' advocate put forth a settlement offer to the tenants and thereafter a mediated discussion ensued. After a long discussion, the parties agreed to resolve their differences.

Preliminary matter-During the period of adjournment, on August 22, 2013, the tenant filed another application for dispute resolution which was used in an attempt to amend their original application, according to the landlord's written statement on that application.

Even though that new application, file # A, was administratively joined with the original two present applications, I find that this was an improper joiner as the tenant listed his original claim and then added a substantial increase as an amendment to his monetary claim.

Pursuant to section 2.5 of the Dispute Resolution Rules of Procedure (Rules), an application for dispute resolution may be amended without consent if the dispute resolution proceeding has not commenced and if the original application has been served, as is the case here, the amended application must be filed at least 7 days before the hearing, and served on the other party at least 5 days before the hearing. In other words, the tenant was required to file an amendment to his application at least 7 days prior to the July 5, 2013, hearing.

In the case before me, the hearing commenced on July 5, 2013, and was scheduled to conclude on September 19, 2013; therefore as the parties were advised that the hearing scheduled on September 19, 2013, was a continuation of the hearing began on July 5, 2013, the tenant may not make amend his application during the period of adjournment. I therefore decline to consider the tenant's amendment to his original application and it is dismissed with leave to reapply on other issues not contained in his original application for dispute resolution.

Settled Agreement

The tenant and the landlords agreed that they could resolve their differences and reach a mutual settlement under the following terms and conditions:

1. The landlords agree to a dismissal of their application seeking monetary compensation of \$7500 for alleged damages to the rental unit;
2. The tenant agrees to a dismissal of his application seeking monetary compensation of \$3150, comprised of \$750 for his security deposit, \$2000 for alleged rent overpayment, \$350 for a move-in and move-out strata fee, and recovery of the filing fee of \$50;
3. In consideration of this settlement, the landlords agree to return the tenant's security deposit of \$750 within 15 days of this hearing;
4. Both parties will bear their own costs for the filing fee; and

5. The parties acknowledge their understanding that this settled Decision resolves the matters contained in the landlords' application and the tenant's original application, # 536611, and that no finding is made on the merits of either of the said applications for dispute resolution.

Conclusion

The landlords and the tenant have reached a settled agreement.

Based upon the settled agreement as outlined above, I provide the tenant with a monetary order for \$750.

The final, legally binding monetary order in the amount of \$750 is enclosed with the tenant's Decision.

Should the landlords fail to pay the tenant this amount within the agreed upon timeframe of 15 days, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement.

This settlement agreement was reached in accordance with section 63 of the *Residential Tenancy Act*. The parties are bound by the terms of this agreement, as well as by the terms of their tenancy agreement and the Act. Should either party violate the terms of this settled agreement, the tenancy agreement or the Act, it is open to the other party to take steps under the Act to seek remedy.

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* and is being mailed to both the applicants/landlords and the applicant/tenant.

Dated: September 19, 2013

Residential Tenancy Branch