



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF, O

Introduction

This is an application filed by the Tenants for a monetary order for money owed or compensation for damage or loss and recovery of the filing fee.

The Tenants attended the hearing by conference call and gave undisputed testimony. The Landlord did not attend or submit any documentary evidence. The Tenants state that the Landlord was served with the notice of hearing package by Canada Post Registered Mail on June 26, 2013 and has provided a copy of the Customer Receipt Tracking number as confirmation. The Tenants indicated that notices were left by Canada Post, but that the Landlord did not pick up the package. I am satisfied based upon the undisputed evidence that the Landlord has been properly served with the notice of hearing package on June 26, 2013 by Canada Post Registered Mail.

During the hearing, the Tenants have also provided a new mailing address as they have recently moved from the address provided on the application. As such, the Tenant's Application shall be amended to show the new address provided.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

This Tenancy began on May 15, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$800.00 and a security deposit of \$400.00 was paid on May 15, 2011.

The Tenant states that they were served with a 2 month notice to end tenancy for Landlord's use of property dated December 10, 2012. The notice stated an effective date of February 11, 2013 and the reason as, "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse." The Tenants vacated the rental unit on February 28, 2013 subject to a decision in another Dispute Resolution Hearing with the Residential Tenancy Branch. The Tenants states that the Landlord did not follow through in good faith with the notice and have re-rented the unit. The Tenants have provided a witness statement from, J.L. a resident of neighboring address who witnessed new tenants moving into the rental unit who were not the Landlords. The Tenants state that the Landlords are East Indian and that the new residents are Caucasian and moved in at the end of April 2013. The Tenant has also provided a copy of a newspaper advertisement for the rental dated April 11, 2013. The Tenant has also submitted a print out of a BC Classified online ad dated March 7, 2013 and Craigslist ad dated March 5, 2013, both of which show the Landlord's telephone number. The Tenant states that she had a friend, T.J. phone the advertisement and confirmed that the Landlord was trying to rent the unit that was recorded. The Tenant has submitted a copy of the recording with the Landlord in a CD format and a written statement from T.J. as confirmation.

The Tenants seek an amount equal to double the monthly rent as compensation from the Landlord for not complying with the 2 month notice to end tenancy for Landlord's use for \$1,600.00.

Analysis

I accept the undisputed testimony of the Tenants and find that a claim has been established that the Landlord has failed to comply in good faith with the 2 months notice to end tenancy for Landlord's use of property. The Landlord has re-rented the unit instead of occupying the rental themselves as shown by the submitted copies of the multiple rental listings and the audio recording showing the Landlord's attempts to re-rent the unit. The Tenants are also entitled to recovery of the \$50.00 filing fee. I grant the Tenants a monetary order for \$1,650.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenants are granted a monetary order for \$1,650.00.

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: September 24, 2013

Residential Tenancy Branch

