



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes NNDC

Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend although he was served with the application and Notice of Hearing sent by registered mail on May 25, 2015.

Issue(s) to be Decided

Is the tenant entitled to a monetary award in the amount equivalent to one months' rent pursuant to section 51(1) of the *Residential Tenancy Act*?

Background and Evidence

The rental unit is one unit of a fourplex in Kelowna. The tenancy began in May, 2014, but the tenant signed a replacement tenancy agreement with the new landlord on July 1, 2014. The tenancy agreement provided that it was for a 10 month term commencing July 1, 2014 and continuing until May 1, 2015. The agreement provided that the tenancy may continue on a month to month basis at the expiry of the term.

On or about November 25, 2014 the landlord served the tenant with a two month Notice to End Tenancy for landlord's use. The Notice to End Tenancy required the tenant to move out of the rental unit on May 1, 2015. The ground for the Notice was that the landlord intended to renovate the unit in a manner that requires the unit to be vacant.

The landlord used an out-dated form of Notice to End Tenancy to notify the tenant that the tenancy would end, however the tenant accepted the Notice to End Tenancy; she paid rent for the month of April and moved out of the rental unit pursuant to the Notice on May 1, 2015.

The landlord returned the tenant's security deposit and pet deposit, but he has refused to pay compensation pursuant to section 51 of the *Residential Tenancy Act*.

Analysis

Section 51(1) of the Act provides as follows:

51 (1) 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.

The tenancy agreement reverted to a month to month tenancy at the end of the fixed term and the landlord was therefore obliged to serve the tenant with a valid Notice to End Tenancy in order to end the tenancy on May 1st. The tenant did not withhold the last month's rent and she was therefore entitled to receive payment of the sum of \$1,200.00 on or before May 1st. The fact that the landlord used an out-dated form to end the tenancy is not a ground to avoid the requirement to pay compensation when the tenant has moved out in response to the Notice to End Tenancy.

Conclusion

The tenant is entitled to compensation equivalent to one month's rent and I grant the tenant an order under section 67 in the amount of \$1,200.00. This order may be registered in the Small Claims Court and enforced as an order of that 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: October 27, 2015

Residential Tenancy Branch

