



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, to keep all or part of the security deposit, and to recover the fee for filing this Application.

The Landlord stated that on July 14, 2017 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenants, via registered mail, at the service address noted on the Application. She stated that these documents were returned to her so on August 08, 2017 they were sent, by courier, to the male Tenant's place of employment. The Tenants acknowledge receiving these documents.

On December 06, 2017 the Landlord submitted 31 pages of evidence to the Residential Tenancy Branch. The Landlord stated that on December 05, 2017 this evidence was served to the Tenants, via registered mail, at the service address noted on the Application. The female Tenant stated that they were not using that service address in December of 2017 and that they did not receive this evidence package.

The Landlord was advised the evidence was not being accepted, as it had not been received by the Tenants. With the consent of the Landlord, the hearing proceeded with the understanding the Landlord could refer to her evidence during the hearing and to request an adjournment if it became necessary for me to view her documents. This hearing ended without a request for an adjournment.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenants agree that:

- the tenancy began on August 01, 2016;
- the tenancy was for a fixed term, the fixed term of which was to end on July 31, 2017;
- both parties understood that at the end of the fixed term the tenancy would continue on a month to month basis or that they could enter into a new fixed term tenancy;
- the Tenants agreed to pay monthly rent of \$1,600.00 by the first day of each month;
- the Tenant paid a security deposit of \$800.00;
- on June 20, 2017 the Tenants gave the Landlord notice of their intent to vacate on July 03, 2017;
- no rent was paid for July of 2017; and
- the Tenants provided a forwarding address, in writing, shortly before the rental unit was vacated.

The Landlord stated that she understood the rental unit was vacated on July 03, 2017. The male Tenant stated that it was vacated on July 01, 2017. The Landlord is seeking compensation for unpaid rent from July of 2017.

The male Tenant stated that they believed they had the right to end this tenancy because the Landlord told them they had to leave at the end of the fixed term tenancy because they were selling the house. The Tenants acknowledge that they were never served with a Two Month Notice to End Tenancy for Landlord's Use of Property.

Analysis

On the basis of the undisputed evidence I find that the Tenant entered into a fixed term tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,600.00 by the first day of each month. On the basis of the undisputed evidence I find that I find that this fixed term tenancy was to end on July 31, 2017.

I find that the Tenants did not comply with section 45(2) of the *Residential Tenancy Act* (Act) when they ended this fixed term tenancy on a date that was earlier than the end date specified in the tenancy agreement. I therefore find that they were obligated to pay rent for July of 2017 when it was due, in the amount of \$1,600.00.

I note that section 49 of the Act authorizes a landlord to end a tenancy if a rental unit is sold, under certain circumstances, by providing a tenant with a written Two Month Notice to End Tenancy for Landlord's Use of Property. In these circumstances the Landlord did not serve the Tenants with a Two Month Notice to End Tenancy for Landlord's Use of Property.

I further note that section 50(1) of the Act authorizes a tenant to give at least ten days notice to end the tenancy IF they have been served with notice to end a tenancy pursuant to section 49 of the Act. As the Tenants were not served with a Two Month Notice to End Tenancy for Landlord's Use of Property, they did not have the right to end the tenancy with ten days notice.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,700.00, which includes \$1,600.00 in rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the Act, I authorize the Landlord to retain the Tenant's security deposit of \$800.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$900.00. In the event the Tenants do not voluntarily comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia 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 *Act*.

Dated: January 11, 2018

Residential Tenancy Branch