



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision Codes: MNDC

Introduction

The Application for Dispute Resolution filed by the Tenant(s) makes the following claims:

- a. A monetary order in the sum of \$1500.
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The respondent EA acknowledged receipt of the Application for Dispute Resolution/Notice of Hearing. I determined the respondent LR was personally served on February 1, 2018 and was also served by registered mail. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenant(s) are entitled to a monetary order and if so how much?
- b. Whether the tenant(s) are entitled to recover the cost of the filing fee?

Background and Evidence:

I determined the tenancy began on August 1, 2017 when the parties entered into a one year fixed term tenancy agreement. The tenancy agreement provided that the tenant(s) would pay rent of \$2000 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$1000 at the start of the tenancy.

The respondents EA and LR are related. They are involved in a dispute over the control of a company which was owned by the mother of the respondents. That dispute is before the Supreme Court of British Columbia.

Unknown to EA, the respondent LR obtained an Order of Possession by identifying a previous tenant who had vacated the rental unit at the end of July 2017 prior to the tenants taking possession as a respondent. On January 24, 2018 the tenants were shocked to see the bailiff at their front door executing a Writ of Possession that identified the former tenant as the respondent. The tenants were able to obtain stay of proceeding late that day from the Supreme Court of British Columbia. However, they experienced significant emotional turmoil in dealing with the situation and loss of time unpacking the over 90 boxes that had been packed by the bailiffs. At all times the tenants had paid their rent in full.

The landlord EA has reimbursed one of the Tenants \$385.45 and the second tenant \$170.50. The landlord's records indicate there may have been an inadvertent second payment of \$170.50 to the tenant JS but there is insufficient proof to establish this.

Settlement:

The parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The landlord(s) shall pay to the tenant(s) a further \$400 plus \$100 for the cost of the filing fee for a total of \$500 such sum may be deducted from future rent.
- b. The tenant(s) shall reimburse the landlord the sum of \$170.50 if the landlord had made the second in that sum to the tenant JS.

This decision is final and binding on the parties.

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: March 28, 2018

Residential Tenancy Branch