



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the One Month Notice to End Tenancy for Cause (the "One Month Notice"), pursuant to section 47;
- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified that the landlord was served the notice of dispute resolution package in person but could not recall on what date. The landlord confirmed receipt of the dispute resolution package but did not know on what date. I find that the landlord was served with this package in accordance with section 89 of the *Act*.

The tenant testified that he moved out of the subject rental property on February 1, 2019. I therefore dismiss the tenant's application to cancel the One Month Notice as the tenancy has ended.

Issue(s) to be Decided

1. Is the tenant entitled to a Monetary Order for damage or compensation under the *Act*, pursuant to section 67 of the *Act*?

2. Is the tenant entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began five to six years ago and ended on February 1, 2019. Monthly rent in the amount of \$400.00 was payable on the first day of each month. No security deposit was paid by the tenant to the landlord. The tenant rented a room from the landlord but did not share a bathroom or a kitchen with the landlord.

Both parties agree that the One Month Notice was personally served on the tenant on December 29, 2018. The One Month Notice stated the following reason for ending the tenancy: the rental unit/site must be vacated to comply with a government order.

The landlord entered into evidence an Order from a municipality which ordered the landlord, on or before January 17, 2019, to:

- Cease use of the subject rental property as a rooming house and remove the keyed locks on all bedroom doors in the basement immediately; and
- Obtain the required permits for the unapproved alterations carried out without permit or approval, or obtain the required permits to remove all work carried out without permit (prior to removal of the work), and restore the building to its last approved condition on record.

The tenant testified that he thought the landlord should have served him with a Four Month Notice to End Tenancy for renovation or repair (a "four-month notice") which would have provided him with more time to find new accommodation and would have entitled him to receive one month's rent from the landlord.

The tenant testified that he could not find new accommodation in the one month provided and so has had to move to another province to stay with his family.

The tenant testified that he is seeking \$2,000.00 from the landlord for a security deposit for his future accommodations, moving expenses, stress, and compensation he would have been entitled to had he been issued a four-month notice. The tenant did not provide a breakdown of how the \$2,000.00 was calculated and did not submit any receipts.

The landlord testified that he was complying with an Order from the city and properly issued the tenant with a One Month Notice in furtherance of that Order. The landlord testified that he is not responsible for the expenses claimed by the tenant.

Analysis

Policy Guideline 16 states that it is up to the party who is claiming compensation to provide evidence to establish that compensation is due.

In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Section 47(1)(k) of the *Act* states that a landlord may issue a one month notice to end tenancy to a tenant if the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority.

I find that the tenant has failed to prove, on a balance of probabilities, that the landlord breached the *Act*. I find that in issuing the One Month Notice, the landlord did not breach the *Act*. I find that the landlord acted in good faith when issuing the One Month Notice after receiving an Order from the city to end the tenancies at the subject rental property. The tenant, while initially disputing the One Month Notice, elected to move out of the subject rental property, prior to today's hearing, thereby voluntarily ending the tenancy. As I have found that the tenant has failed to prove that the landlord breached the *Act*, I dismiss the tenant's claim for damages.

I note that the triggering event for receiving one month's free rent under section 51 of the *Act* is receipt of a four-month notice. As the tenant did not receive a four-month notice from the landlord, he is not entitled to one month's free rent under section 51 of the *Act*.

In addition, I find that since the tenant did not provide a breakdown of how his monetary claim was calculated, and did not provide any receipts for his alleged expenses, I find that the tenant failed to prove the amount of or value of the damage or loss claimed. Therefore, the tenant's claim fails on this point as well.

As the tenant was not successful in his application, I find that he is not entitled to recover the \$100.00 filing fee from the landlord, pursuant to section 72 of the *Act*.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: February 13, 2019

Residential Tenancy Branch