



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

The tenant sought compensation under sections 67 and 72(1) of the *Residential Tenancy Act* (the “Act”). He applied for dispute resolution on December 19, 2018 and a dispute resolution hearing was held on April 12, 2019. The tenant attended the hearing and was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The landlord did not attend.

The tenant testified that he served the Notice of Dispute Resolution Proceeding package (the “package”) on December 20, 2018 by registered mail. The mail was returned unclaimed. A copy of the tracking number and a photo of the returned mail was submitted into evidence. The landlord’s address on the mail matched the address for service of the landlord on the tenancy agreement. Given the above I find that the landlord was served in compliance with section 89 of the Act.

I reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred, but only evidence relevant to the issue of this application were considered.

Preliminary Issue: Primary Claim for Compensation Resolved

The tenant testified that he had sought compensation for half a month’s rent that the landlord promised to pay him after he agreed to vacate the rental unit early. The landlord needed to occupy the rental unit earlier than expected. The landlord initially refused to pay the tenant the half month’s rent, which lead to the tenant filing this application. However, the landlord ended up paying the tenant the money owed in early February 2019. Therefore, the tenant simply seeks compensation for the filing fee and the cost of the registered mail. I explained that I was unable to consider the claim for the registered mail costs but could consider the filing fee.

Issue

Whether the tenant is entitled to compensation for the filing fee.

Background and Evidence

The tenant testified that the tenancy began on July 15, 2018 and was to be a fixed term, one-year tenancy, after which the landlord would move into the rental unit. Monthly rent was \$2,250.00. A copy of the written tenancy agreement was submitted into evidence.

The tenancy ended much earlier than expected, and the above-noted refund of partial rent was agreed upon by the parties. After the landlord initially refused to refund part of the rent, the tenant filed for dispute resolution. In early February 2019 the landlord finally paid the tenant the money owed.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 72(1) of the Act states that an arbitrator

“may order payment or repayment of a fee under section 59 (2) (c) *[starting proceedings]* or 79 (3) (b) *[application for review of director's decision]* by one party to a dispute resolution proceeding to another party or to the director.”

In this case, the central claim by the tenant against the landlord for \$1,125.00 was resolved a few months ago. However, by the evidence and testimony submitted, it was a valid claim that, had the landlord paid the tenant when she was supposed to, the tenant would not have had to apply for dispute resolution and incur filing costs.

Given the above, I award the tenant a monetary award of \$100.00 for the cost of the filing fee pursuant to section 72(1) of the Act. A corresponding monetary order in this amount is issued along with this Decision.

Conclusion

I hereby grant the tenant a monetary order in the amount of \$100.00, which must be served on the landlord. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia.

This decision is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: April 12, 2019

Residential Tenancy Branch