



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT FFT

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation and for recovery of the filing fee paid for this application.

The tenant and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the landlord confirmed receiving the tenant's evidence and confirmed that she did not provide evidence for the hearing.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation and to recover the filing fee paid for this application?

Background and Evidence

The written tenancy agreement submitted by the tenant, and confirmed during the hearing, shows that the tenancy began on June 1, 2017, for a beginning monthly rent of \$1,750.00, and a security deposit paid of \$875.00.

The tenant submitted that monthly rent was raised to \$1,785.00 after the first year.

The landlord has returned the tenant's security deposit.

The tenant submitted that he received a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice"), by registered mail, from the landlord. The Notice, submitted into evidence, was dated April 4, 2019, and had an effective move-out date of June 31 [*sic*], 2019. The reason listed by the landlord for ending this tenancy was that the rental unit will be occupied by the landlord or the landlord's close family member.

The tenant submitted that he elected to move out early and sent the landlord a 10 day Notice, by registered mail on April 15, 2019, for a move-out date of April 28, 2019. The tenant confirmed he vacated the rental unit on April 28, 2019. The tenant submitted that he paid the monthly rent of \$1,785.00 for April 2019.

The tenant's monetary claim is \$3,689.00, comprised of one month's rent of \$1,785.00, and \$1,904.00, listing a "rental fee for the days after the tenancy ends (33 days till June 30th).

Landlord's response-

The landlord confirmed that she did not pay the tenant one month's compensation and for reason, said she visited the Residential Tenancy Branch ("RTB") branch twice. During these visits, she was told she did not have to pay the tenant this compensation as he decided to leave earlier than the move-out day listed on the Notice.

Analysis

Based upon the oral and written relevant evidence and a balance of probabilities, I find as follows:

Under section 51(1) of the Act, 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.

Section 50 of the Act allows the tenant to end the tenancy earlier than the effective move-out date listed on the Notice, in this case, June 31 [*sic*], 2019, with a 10 day notice to the landlord.

I find the undisputed evidence is that the tenant paid rent for April 2019, thereafter received the landlord's Notice, and that he chose to vacate earlier than the date listed on the Notice. I also find the undisputed evidence is that he served the landlord a proper 10 day notice of his intention to vacate.

I therefore find the tenant is entitled to monetary award of \$1,785.00, which is the equivalent of one month's rent under this tenancy agreement.

I also find that, per section 50 (2) of the Act, the tenant is entitled to two days' prorated rent, for April 29 and 30, 2019, as he paid for the full month of rent for April. I therefore grant the tenant a monetary award of \$117.36 ($\$1,785.00 \times 12 \text{ months} = \$21,420 \text{ yearly rent} \div 365 \text{ days} = \$58.68 \text{ daily rate} \times 2 \text{ days} = \117.36).

As the tenant elected to end the tenancy early, I dismiss his claim of \$1,904.00 for further prorated rent through June 2019, as there is no basis for this claim under the Act. The tenancy ended on April 28, 2019.

I grant the tenant recovery of his filing fee of \$100.00.

I find the tenant is entitled to a monetary award of \$2,002.36, comprised of the equivalent of one month's rent of \$1,785.00, prorated rent for April 29 and 30, 2019 for \$117.36, as described above, and recovery of the filing fee of \$100.00, due to his successful application.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of his monetary award of \$2,002.36.

Should the landlord fail to pay the tenant this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia

(Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

Conclusion

The tenant's application for monetary compensation is granted, as she is being issued a monetary order for the amount of \$2,002.36.

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: July 12, 2019

Residential Tenancy Branch