



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, FFT

Introduction

This hearing was convened as a result of the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenants applied for a return of their security deposit, 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 listed 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, neither party raised an issue with the service of the other's evidence.

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

Are the tenants entitled to monetary compensation and to recover the filing fee paid for this application?

Background and Evidence

The evidence taken at the hearing was that the tenancy began on January 13, 2018, that monthly rent was \$1,400.00, that hydro and internet service was an additional \$75.00 per month, and a security deposit paid of \$700.00 was paid at the beginning of the tenancy. I was not provided a written tenancy agreement and the tenant submitted they had not received one.

The landlord has now returned the tenant's security deposit of \$700.00, after the date of the tenants' application was made.

The tenant submitted that they received a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") from the landlord, when it was placed under the door on or about March 6, 2019. The Notice, submitted into evidence, was dated March 6, 2019, and had an effective move-out date of May 31, 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 they elected to move out early and sent the landlord a 10 day Notice, for a move-out date of April 2, 2019. The tenant confirmed they vacated the rental unit by April 2, 2019. The tenant submitted that they paid the prorated monthly rent for April 1 and 2, 2019.

The tenant's monetary claim is \$3,554.81, comprised of the security deposit of \$700.00 and \$2,854.81, "compensation" for the Two Months Notice of End of Tenancy.

Landlord's response-

The landlord confirmed that she did not pay the tenant one month's compensation.

The landlord submitted that she had allowed the tenants to move into the rental unit, despite not wanting to rent out the home. The landlord submitted that she felt compassionate towards the tenants as their home had burned down.

The landlord submitted that she only wanted a one year lease, which was to be renewable at the landlord's option.

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 a tenant to end the tenancy earlier than the effective move-out date listed on the Notice, in this case, May 31, 2019, with a 10-day notice to the landlord.

I find the undisputed evidence is that the tenants paid the prorated rent for April 1 and 2, 2019, and that they chose to vacate earlier than the date listed on the Notice. I also find the undisputed evidence is that they served the landlord a proper 10 day notice of their intention to vacate.

I therefore find the tenants are entitled to a monetary award of \$1,400.00, which is the equivalent of one month's rent under this tenancy agreement. I find the evidence supports that the additional \$75.00 under the tenancy agreement was not included as monthly rent.

As the tenants elected to end the tenancy early, I dismiss the balance of their claim for further rent through May 2019, as there is no basis for this claim under the Act. The tenancy ended on April 2, 2019.

As the landlord has returned the tenants' security deposit of \$700.00, I have excluded that portion of their claim.

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

I find the tenants are entitled to a monetary award of \$1,500.00, comprised of the equivalent of one month's rent of \$1,400.00 and recovery of the filing fee of \$100.00, due to their successful application.

I grant the tenants a final, legally binding monetary order pursuant to section 67 of the Act for the amount of his monetary award of \$1,400.00.

Should the landlord fail to pay the tenants 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 tenants' application for monetary compensation is granted, as they are being issued a monetary order for the amount of \$1,500.00.

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 22, 2019

Residential Tenancy Branch