



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FFT

Introduction

This hearing was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenants 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 tenants 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, each party confirmed that they had received the other party's evidence.

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

I have reviewed all oral, digital, and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I consider and 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 from the landlord and to recovery of the filing fee paid for this application?

Background and Evidence

The evidence shows that the parties entered into a 4 month, fixed term tenancy, beginning on November 18, 2018, through March 16, 2019. The parties then entered into a 1 month, fixed term from March 16 to April 16, 2019.

Both tenancy agreements required the tenants to vacate the rental unit at the end of the fixed term. Neither tenancy agreement provided that as the reason to vacate, the rental unit would be occupied by the landlord or a close family member. Nevertheless, the evidence showed that the tenants, rather than stay on a month to month basis for the original monthly rent, elected to vacate the rental unit.

The tenants' monetary claim is \$650.00, comprised of \$550.00 for an overpayment of the last month's rent and the filing fee for a previous dispute resolution. The tenants are also seeking recovery of the filing fee paid for this application.

The tenants submitted that their monthly rent for the first fixed term tenancy was \$2,450.00, and that with two days' notice, the landlord increased the monthly rent for the last, fixed term tenancy, to \$3,000.00.

The tenants claim that they overpaid rent in the amount of \$550.00, due to the increase between fixed term tenancies.

Landlord's response-

The landlord said that she did not owe the tenants any sums due to the fact that they signed the fixed term tenancy agreement.

The landlord said she required them to move out because she had other tenants moving in, a family in need of accommodation.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

The evidence shows that the landlord increased the monthly rent between the two tenancy agreements, by \$550.00.

Residential Tenancy Policy Guideline 30(H) states that a rent increase between fixed term tenancy agreements is subject to the annual, allowable rent increase. Section 42 of the Act imposes restrictions on rent increases during a tenancy, but in all cases, the landlord may only raise the rent every 12 months, and in accordance with the allowable rent increase, which in 2019 is 2.5%. In this case, the monthly rent between fixed term tenancies was increased after 4 months.

I therefore find the landlord breached the Act and the Policy Guideline, by increasing the monthly rent by \$550.00 between fixed term tenancy agreements, after 4 months.

Due to the above, I find the tenants overpaid their rent for the second fixed term tenancy in the amount of \$550.00 and grant them a monetary award in that amount.

As to the tenants' claim for a filing fee from a previous dispute resolution matter, I am only authorized by section 72 of the Act to order a repayment of a filing fee for the current dispute resolution.

As the tenants were successful with their application, I grant them recovery of their filing fee of \$100.00.

I find the tenants are entitled to a total monetary award of \$650.00, comprised of the overpayment of rent in the amount of \$550.00 and recovery of their filing fee of \$100.00.

I therefore grant the tenants a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$650.00.

Should the landlord fail to pay the tenants this amount without delay, the order must be served on the landlord to be enforceable. Thereafter, the 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 was granted in large part and they have been granted a monetary award in the amount of \$650.00.

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: October 30, 2019

Residential Tenancy Branch