



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNETC, FF

Introduction

This teleconference hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied on October 26, 2021, for a return of their security deposit, compensation from the landlord related to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice), and recovery of the cost of the filing fee.

The parties listed on the style of cause page of this Decision attended, the hearing process was explained to the parties, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

The parties were informed at the start of the hearing that recording of the dispute resolution hearing is prohibited.

Thereafter the parties 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 and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Following is a summary of those submissions and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation from the landlord, a return of his security deposit, and recovery of the cost of the filing fee?

Background and Evidence

The tenancy began on December 15, 2009, with another landlord, for a monthly rent of \$900, and a security deposit of \$450 being paid by the tenant to the landlord. The tenancy ended on or about July 29, 2021. The monthly rent at the end of the tenancy, according to the tenant, was \$1,068.50.

The landlord said he took ownership of the residential property on July 29, 2021.

The tenant's monetary claim is \$1,468.50, comprised of \$1,068.50 equal to a month's rent, \$300 for the balance of his security deposit, and the filing fee of \$100.

The tenant submitted that he was served a Two Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice), which was dated March 31, 2021, for a move-out date of May 31, 2021. The tenant submitted that he initially disputed the 2 Month Notice, but later withdrew that application as the landlord was being so nice and agreed to let the tenant stay until the rental unit was demolished. Filed in evidence was a copy of the 2 Month Notice.

One month's rent monetary compensation –

The tenant wrote in his application the following:

I signed the mutual agreement to end tenancy because he promised to: pay me one month worth of rent after I move. 2) he will ask me to move once the demolition permit is approved. 3) extend my stay if demolition permit is not approve yet after July 31. (landlord name) did not comply with these agreements. He asked me to withdraw my dispute which I did. I did all to please him and yet he did not keep his promise. The house was already demolished last October 14. He gave me 2 month notice to end tenancy.

The tenant submitted that he paid the monthly rent for July 2021, but that he was entitled to a month's rent compensation, due to the landlord's promise to pay.

In response, the landlord confirmed that he had agreed to pay the tenant compensation equal to the monthly rent, but decided not to do so due to the bags of garbage left by the tenant.

The tenant submitted that he was going back to collect the bags of garbage, but was not given access to the garage to retrieve them.

Return of the security deposit –

The tenant wrote in his application the following:

Security Deposit was \$450. Hydro bill was only about \$100. (landlord name) did not pay back the security deposit after 15 days.

The tenant submitted that he provided the landlord with his written forwarding address in an email on August 20, 2021.

The landlord confirmed receiving that tenant's emailed forwarding address.

Analysis

Based on the relevant oral and written evidence, and on 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.

The undisputed evidence is that the tenant received a 2 Month Notice from the landlord, for an effective date of May 31, 2021, that he disputed the 2 Month Notice, but later withdrew his application. However, there was no evidence presented that the tenant was ever given compensation for which he was entitled under section 51(1). The tenant testified that he paid the monthly rent up until the day he vacated. In addition, the landlord confirmed that he promised to pay the tenant the equivalent to one month's

rent. I do not find evidence that this promise was conditional, such as if the tenant failed to remove bags of garbage.

For this reason, I find the tenant submitted sufficient evidence to support his monetary claim of \$1,068.50. I therefore find the tenant has established a monetary claim of \$1,068.50.

Security deposit return –

Under section 38(1) of the Act, at the end of a tenancy, unless the tenant's right to a return of their security deposit and pet damage deposit has been extinguished, a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing or the end of the tenancy.

If a landlord fails to comply, then the landlord must pay the tenant double the security deposit, pursuant to section 38(6) of the Act.

In this case, neither party raised an issue with regard to extinguishment during the hearing or in their evidence.

I find the tenant provided sufficient evidence that the tenancy ended on July 29, 2021, that he provided his written forwarding address to the landlord via email on August 20, 2021, and that the landlord has not returned any portion of the tenant's security deposit.

While the written forwarding address was provided via email, the landlord confirmed receiving the forwarding address. I find the landlord was sufficiently served the tenant's written forwarding address due to the landlord's confirmation.

I therefore find the landlord was obligated to return the tenant's security deposit, in full, or make an application claiming against the tenant's security deposit no later than September 4, 2021, 15 days after receiving the tenant's forwarding address on August 20, 2021, and did not.

The tenant has authorized a deduction for the utilities and requested the balance of \$300.

I therefore **order** the landlord to return the balance of the tenant's security deposit of \$300 and that this amount must be doubled.

I grant the tenant recovery of the filing fee of \$100, due to his successful application.

I therefore find the tenant has established a monetary claim of \$1,768.50, comprised of the equivalent of one monthly rent payment of \$1,068.50, the balance of his security deposit of \$300, doubled to \$600, and the filing fee paid for this application of \$100.

I grant the tenant a monetary order (Order) in the amount of **\$1,768.50**.

Should the landlord fail to pay the tenant this amount without delay, the Order may be served upon the landlord and filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is **cautioned** that costs of such enforcement are recoverable from the landlord.

Conclusion

The tenant's application is granted as he is awarded a monetary award in the amount of \$1,768.50 as noted above.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 17, 2022

Residential Tenancy Branch