



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

In this application for dispute resolution, the tenants applied on July 3, 2022 for:

- compensation because the landlord ended the tenancy and has not complied with the Act or used the rental unit for the stated purpose; and
- recovery of the filing fee.

On February 22, 2023 the tenants amended their application to reduce the amount of their compensation claim from \$3,400.00 to \$1,700.00.

The hearing was attended by one of the tenants, but not the landlord. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The tenant testified they served the Notice of Dispute Resolution Proceeding (NDRP) and their evidence on the landlord by registered mail, to the landlord's address for service on the tenancy agreement, on July 15, 2022, and provided a tracking number as noted on the cover page of this decision. I find the tenants served their materials on the landlord in accordance with section 89 of the Act and deem them received by the landlord on July 20, 2022, pursuant to section 90.

Issues to be Decided

- 1) Are the tenants entitled to compensation from the landlord?
- 2) Are the tenants entitled to the filing fee?

Background and Evidence

The tenant provided the following particulars regarding the tenancy. It began May 1, 2021 and ended on June 1, 2022; rent was \$1,700.00, due on the 15th of the month, and the tenants paid a security deposit of \$1,700.00, which the landlord has returned.

A copy of the tenancy agreement was submitted as evidence, indicating that rent was \$1,700.00.

A copy of the Two Month Notice to End Tenancy for Landlord's Use of Property, dated April 20, 2022, is submitted as evidence and indicates an effective date of June 1, 2022. It states the purchaser intends to occupy the rental unit.

The tenant confirmed that the tenancy ended as a result of the Two Month Notice. The tenant testified that they did not withhold the last month's rent, and the landlord did not provide the tenants with an amount equal to one month's rent payable under the tenancy agreement.

The tenant testified they are seeking \$1,700.00, the amount equal to one month's rent payable under the tenancy agreement.

Analysis

Section 51(1) of the Act states that 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 tenant testified that they did not withhold the last month's rent, and the landlord did not provide the tenants with an amount equal to one month's rent payable under the tenancy agreement.

Based on the tenant's affirmed undisputed testimony, I find, on a balance of probabilities, that the landlord has not met their obligation, so pursuant to section 51(1), owes the tenants \$1,700.00, the amount equal to the monthly rent payable under the tenancy agreement.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the tenants are successful in their application, I

order the landlord to pay the \$100.00 filing fee the tenants paid to apply for dispute resolution.

The tenants are entitled to a monetary order in the amount of \$1,800.00, comprising \$1,700.00 in compensation and \$100.00 for the filing fee.

Conclusion

The tenants are granted a monetary order for \$1,800.00. The monetary order must be served on the landlord. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: April 20, 2023

Residential Tenancy Branch