

## **DECISION**

Dispute Codes      MNDC

### Introduction

This matter dealt with an application by the Tenant for compensation for loss or damage under the Act, regulations or tenancy agreement.

At the start of the conference call the Tenant said a previous hearing was held on January 26, 2012 at which time the DRO awarded the Tenant \$1,119.90 in damages as a result of the Landlord issuing the Tenant a 2 Month Notice to End Tenancy for the Landlord's Use of the Property. The Landlord did not compensate the Tenant as stated in the Sections 49 and 51 of the Act; therefore the Tenant applied for Dispute Resolution. The Tenant has now reapplied because she spelled the Landlord's name incorrectly in the first application and as a result the monetary order was not enforceable.

### Issues(s) to be Decided

1. Does the Tenant have a loss or damage under the Act, regulations or tenancy agreement and if so how much?
2. Is the Tenant entitled to compensation for that loss or damage and if so how much?

### Background and Evidence

This tenancy started on June 1, 2011 as a month to month tenancy. The tenancy ended November 16, 2012. Rent was \$750.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$375.00 which has been returned to the Tenant.

The Tenant said that she ended the tenancy earlier than the effective vacancy date of December 30, 2011, on the Landlord's Notice to End Tenancy dated October 19, 2011. The Tenant ended the tenancy on November 16, 2012 as the Landlord issued a 2 Month Notice to End Tenancy for the Landlord's Use of the Property. The Tenant continued to say that the Landlord did not compensate her for the Notice to End Tenancy as the Act indicates nor did the Landlord return part of her rent when she moved out of the unit early. The Tenant said the previous hearing awarded her \$1,119.00 for compensation and recovery of rent.

The Tenant continued to say that she is applying for an additional \$500.00 in this application because the Landlord has not used the property as he said he stated he would on the Notice to End Tenancy. The Tenant said she does not have any evidence that proves this is the case.

### Analysis

Under section 51 of the Act, a tenant who receives a notice 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. I concur with the decision of January 27, 2012 and I award the Tenant \$750.00 (the equivalent of one month's rent) as compensation for the Landlord issuing a 2 Month Notice to End Tenancy for the Landlord's use of the Property.

Under section 50 of the Act, a tenant is entitled to end the tenancy earlier than the effective date of the Notice by issuing the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice. Under section 50 (2), if the rent has been paid by the tenant before giving notice, the landlord must refund any rent paid for a period after the effective date. Consequently I concur with the decision of January 27, 2012 and I award the Tenant \$369.90 which represents the rent paid from November 16, 2011 to November 30, 2012.

With respect to the Tenant's claim for an additional \$500.00 because the Tenant says the Landlord has not used the property as he stated on the Notice to End Tenancy. I have taken note that section 51 (2) (b) states that compensation can be sought for if a landlord does not use the property as stated, but those claims must have corroborating evidence to prove that the Landlord has not used the property as he stated in the Notice to End Tenancy. The Tenant has not provided any evidence to prove her claims about the Landlord use of the property. Consequently I find the Tenant has not established grounds to be successful in her claim for \$500.00 for the Landlord not using the property as stated on the Notice to End Tenancy. I dismiss this claim from the application.

As the Tenant has been partially successful in this matter I award the Tenant a monetary Order represents compensation for the 2 Month Notice to End Tenancy for Landlord's Use of the Property in the amount of \$750.00 and I award the Tenant \$369.90 in rent recovery for a total amount of \$1,119.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to section 67 of the Act, I grant a Monetary Order for \$1,119.00 to the Tenant. The order must be served on the Respondent in one of the ways state in the Act and is enforceable through the Provincial Court of British Columbia (small claims court) as an order of that court.

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*.

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Residential Tenancy Branch