



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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DECISION

Dispute Codes MNRL-S FFL MNSDS-DR FFT

Introduction

The landlord seeks compensation for unpaid rent, for the cost of phone installation, and for the cost of their application fee, pursuant to sections 26, 67, and 72 of the *Residential Tenancy Act* (the “Act”).

The tenant seeks the return of their security deposit and for the cost of their application fee, pursuant to sections 38 and 72 of the Act.

Issue

Is either the landlord or the tenant entitled to any compensation?

Background and Evidence

In a dispute resolution proceeding, the applicant must prove their claim on a balance of probabilities (meaning “more likely than not”). I have considered the parties’ testimony, arguments, submissions, and documentary evidence, but will only refer to evidence that I find relevant and necessary to explain the decision.

Both parties’ applications for dispute resolution noted that the tenancy ended on March 31, 2023. There is, however, a copy of a Mutual Agreement to End a Tenancy (“Mutual Agreement”) document submitted by both the landlord and the tenant.

The Mutual Agreement is dated March 9, 2023 and it is signed by both parties, The Mutual Agreement indicates that the tenancy ends on April 1, 2023, at 4:00 PM. The landlord confirmed that this is the date on which the tenant vacated the rental unit.

The landlord seeks compensation in the amount of \$625.00 for, as stated in their application and explained during their testimony, “As I was able to re-rent my suite for Apr 15th, she owes me 1/2 months rent of \$625.” In addition, the landlord seeks \$50.00 for an amount that they paid to install a landline phone in the rental unit, at the request of the tenant. The rental unit is in Sooke, where there is poor cellular phone coverage.

The tenant pointed out that the tenancy was ended mutually by the parties through the Mutual Agreement. Further, she acknowledged that she initially agreed to owing the landlord the \$50.00 for the phone installation. But, after the landlord told her that she would be keeping the entirety of the security deposit, the tenant assumed that “all deals were off” and that she didn’t owe the landlord anything.

Analysis

Claim for Unpaid Rent

While a tenant is ordinarily required to give at least a full month’s notice when they intend to end a tenancy (section 44(1)(a)(i) of the Act), a tenancy may *also* be ended when both a landlord and a tenant “agree in writing to end the tenancy.”

This method of ending a tenancy is permitted under section 44(1)(c) of the Act, and it is what occurred here: the landlord and the tenant both signed the Mutual Agreement to end the tenancy effective April 1, 2023. Indeed, this is a day later than the date on which the parties have indicated the tenancy ended, that is, on March 31, 2023.

Because the parties mutually agreed in writing to end the tenancy on April 1, 2023, the tenancy ended on that date. And the tenant was not legally required to pay rent for the month of April.

If the landlord had in fact refused to sign the Mutual Agreement, then the tenancy would not have ended until the earliest of April 30, in which case the tenant would have been potentially liable for a full month of rent. In this case, and to reiterate, the execution of the Mutual Agreement overrides any other notice provisions under the Act.

Taking into consideration all the evidence before me, it is my finding that the landlord has not proven that they are entitled to any unpaid rent for the month of April. This aspect of the landlord's claim is therefore dismissed.

Claim for Phone Installation

By all accounts, the tenant believed that she owed the landlord \$50 for the cost of the phone installation which *she* had asked the landlord to do, and for which agreed to pay the landlord for. They even agreed to "tack it on" to future rent. However, the tenant later had a change of mind about her agreement to pay the landlord after the landlord made remarks about keeping the tenant's security deposit.

It is my finding that, despite the landlord's rather unfortunate comments about keeping the security deposit, the parties had a verbal contract. That contract was for the landlord to install a telephone landline in the rental unit in exchange for the tenant paying the landlord \$50.

Nothing occurred in word or deed that would have voided that contract, and it is my finding, on a balance of probabilities, that the landlord is thus entitled to compensation in the amount of \$50.00 as claimed.

Summary

The tenant is entitled to a partial return of their security deposit for \$350. They are entitled to recover the cost of their application fee of \$100. In total, the tenant is awarded \$450.

The landlord is entitled to partial compensation in the amount of \$50. They are also entitled to recover the cost of their application fee of \$100. In total, the landlord is awarded \$150.

The landlord is, under section 38(4)(b) of the Act, authorized to retain \$150 of the tenant's security deposit in full satisfaction of the award. However, the landlord is ordered to return the balance of the security deposit of \$250, plus an additional \$100 to pay for the cost of the tenant's application, for a total of \$350.

The landlord is ordered to pay this \$350 to the tenant. A monetary order in this amount is issued with this decision to the tenant. The tenant may, if necessary, enforce the monetary order in small claims court.

Conclusion

The landlord's and the tenant's applications are granted, in part, subject to the amounts awarded and ordered payable above.

Dated: October 7, 2023

Residential Tenancy Branch