



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for a monetary Order for money owed or compensation for damage or loss and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Tenant is entitled to compensation for costs associated to moving a storage shed and personal belongings from the residential property after she received a Two Month Notice to End Tenancy for Landlord's Use of Property.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on February 01, 2005 and ended on September 01, 2008. The parties agree that they had a month-to-month tenancy, which did not have a specific end date.

The Landlord and the Tenant agree that the Tenant was served with a Two Month Notice to End Tenancy for Landlord's Use of Property in June of 2008 and that the Tenant vacated the rental unit subsequent to being served with that Notice. The parties agree that the Notice to End Tenancy declared that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member of the landlord or the landlord's spouse.

At the hearing the female Landlord declared that her mother moved into the rental unit on October 12, 2008 and that her mother is currently residing in the rental unit. A letter from the female Landlord's mother, which corroborates this declaration, was submitted in evidence. This evidence was not refuted by the Tenant.

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The Landlord and the Tenant agreed that the Tenant asked for permission to move a storage shed onto the property. The parties agree that the Tenant moved a storage shed to the property in April of 2008 and that she moved some personal belongings into the shed.

The Tenant stated that she would not have gone to the expense of moving the storage shed onto the rental property if she had known that the Landlord was planning on ending the tenancy. She stated that she assumed the tenancy was secure when the Landlord gave her permission to move the storage shed onto the rental property, although she acknowledged that the parties did not discuss creating a fixed term tenancy when they discussed the storage shed.

The male Landlord stated that he did not realize that his mother-in-law would be moving into the rental unit when he gave the Tenant permission to move a storage shed onto the property. The Landlord declared that the mother-in-law did not express an interest in moving into the rental unit until May of 2008, which was after the shed had been moved onto the property.

The Tenant is seeking compensation, in the amount of \$3,406.41, for the cost of purchasing the shed; moving her contents into the shed; and moving the contents out of the shed at the end of the tenancy.

Analysis

Section 67 of the *Residential Tenancy Act (Act)* authorizes me to order a landlord to pay compensation to a tenant only when damage or loss results from the landlord not complying with the *Act*. In these circumstances, the Tenant has not established that the Landlord failed to comply with the *Act*.

I find that the parties did not enter into a fixed term tenancy at any time during this tenancy. Specifically, I find that the parties did not enter into a fixed term tenancy when the Landlord gave the Tenant authority to move a storage shed onto the residential property. As the parties never entered into a fixed term tenancy, the Landlord had the right to end this tenancy pursuant to section 49 of the *Act*.

Section 49(3) of the *Act* stipulates, in part, that a landlord may end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. In the circumstances before me, I find that Landlord lawfully ended this tenancy pursuant to section 49 of the *Act* because a close family member of the landlord moved into the rental unit.

Although I recognize that the Tenant incurred expenses when she moved a storage shed and personal property onto the residential property shortly before this tenancy ended, I can not find that the Landlord is liable for those expenses. In reaching this conclusion I note that there is no evidence to show that the Landlord acted with malice or deceit when granting permission to have a storage shed placed on the property and there is no evidence that the expenses resulted from the Landlord's non-compliance with the *Act*.

Conclusion

As the Tenant has failed to establish that she incurred expenses as a result of the Landlord not complying with the *Act*, I hereby dismiss the Tenant's claim for compensation for costs associated to moving the storage shed and her personal property.

As the Tenant's claim has been found to be without merit, I hereby dismiss her claim for compensation for the cost of filing this Application for Dispute Resolution.

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*.

A fact sheet detailing how to request a review of this decision has been provided to both parties.

Dated: August 11, 2009.

Dispute Resolution Officer