



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNL MNDC OLC FF

Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for landlord's use, as well as for monetary compensation and an order that the landlord comply with the Act. Both tenants and the landlord participated in the teleconference hearing.

At the outset of the hearing the landlord submitted that I did not have jurisdiction to hear this matter, as it was not a tenancy. The landlord stated that she never advertised the unit, and it was a house-sitting arrangement, not a tenancy. The landlord acknowledged that she did collect rent from the tenants, and she served the tenants with a notice to end tenancy for landlord's use. I determined that there was a tenancy and that I did have jurisdiction to hear this matter.

In the hearing the tenants confirmed that they accepted the landlord's notice to end tenancy, but they wanted confirmation that the effective date of the notice was automatically corrected to April 30, 2011. The landlord's testimony was that she served the tenants with the notice on February 1 or 2, 2011 by sliding it under their door. The tenants stated that they received the notice on February 4, 2011. I informed the parties that even if the tenants had received the notice on February 1, 2011, the effective date on the notice would automatically correct to April 30, 2011. As the tenants stated they intended to act on the notice and move out, I dismissed the portion of the tenants' application regarding cancellation of the notice.

A portion of the tenants' application for monetary compensation was a claim for \$600 for anticipated costs. As the tenants have not incurred those costs, their application for this amount is premature. I have dismissed that portion of their application with leave to reapply.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation as claimed?

Background and Evidence

The evidence of the tenants was as follows. The tenancy began on or about March 1, 2010, with monthly rent in the amount of \$800. In October 2010 the rent was reduced to \$600 per month to compensate the tenants for any disturbances or costs the tenants incurred due to renovations.

On January 19, 2011, the landlord informed the tenants that part of the ceiling in the living room would have to be replaced. In her letter, the landlord wrote "I know this is a hassle for you. So, I'm willing to give you February rent free."

On January 24, 2011 one of the two tenants, AP, had to miss a day of work because the contractors did not inform the tenants that they would also be opening up the kitchen and dining room ceilings, and he had to move furniture that day for the work to be done in those areas. When the ceiling work was completed, there was a lot of dust all over every surface, including the tenants' furniture. The tenant CS is asthmatic, and dust is a health concern for her. The tenants requested that the landlord have the dust cleaned up, but the landlord told the tenants she was not going to pay for it. The tenants then hired a cleaning company and paid \$140 for cleaning. The tenants provided photographs of the dust left after the ceiling renovations.

The tenants have applied for the following amounts: \$600 as one month's compensation for the month of March 2011 pursuant to the notice to end tenancy for landlord's use; \$120 for AP's day of lost wages; and \$140 for their cleaning bill.

The response of the landlord was as follows. The tenants are not entitled to one month's free rent for March 2011 because they already received one month's free rent for February 2011.

The tenants are not entitled to compensation for AP's lost wages because furniture did not have to be removed from the unit and would have only taken an hour at most to move or cover it; further, the tenants had already received a reduced rent as compensation for renovation disruptions.

The tenants are not entitled to the costs of cleaning because they already received a reduced rent for renovation disruptions.

Analysis

In consideration of all of the testimonial, documentary and photographic evidence, I find as follows. The landlord informed the tenants on January 19, 2011 that they could have February 2011 rent-free as compensation for the ceiling renovations. The tenants were amply compensated for any costs or inconvenience related to the ceiling renovations, and I therefore find that they are not entitled to the \$140 cleaning costs claimed or the \$120 claimed for lost wages. I therefore dismiss those portions of the tenants' application.

The landlord gave the tenants February 2011 rent-free as compensation for the ceiling renovations, and she did so before she issued the notice to end tenancy for landlord's use. That month of free rent cannot be used as the compensation pursuant to the notice to end tenancy. I therefore find that the tenants are entitled to compensation equivalent to one month's rent, in the amount of \$600, pursuant to the notice to end tenancy for landlord's use.

As the tenants' application was only minimally successful, I find they are not entitled to recovery of the filing fee for the cost of their application.

Conclusion

The tenants are entitled to compensation equivalent to one month's rent, in the amount of \$600, pursuant to the notice to end tenancy for landlord's use. I hereby order that the landlord comply with section 51 of the Act regarding compensation pursuant to the notice to end tenancy for landlord's use.

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: February 28, 2011.

Residential Tenancy Branch