



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an application by the tenants for monetary compensation under the Act. One tenant, the landlord and a witness for the landlord participated in the teleconference hearing.

Issue(s) to be Decided

Are the tenants entitled to compensation as claimed?

Background and Evidence

The tenancy began in October 2002. In 2010, the monthly rent was \$1053. On June 24, 2010, the landlord gave the tenants a notice to end tenancy for landlord's use. The notice indicated that the reason for ending the tenancy was that the rental unit would be occupied by a close family member.

The tenants acted on the notice and vacated the rental unit on August 30, 2010. In early October 2010 the tenants saw ads indicating that the rental unit was available for rent. The tenants have applied for monetary compensation equivalent to two months' rent, in the amount of \$2106, on the basis that the landlord did not use the rental unit for the stated purpose.

The landlord's response was that he gave the tenants the notice to end tenancy because his daughter planned to move back home and occupy the rental unit. However, his daughter's plans changed. The landlord acknowledged that he re-rented the unit to new tenants in December 2010.

Analysis

Section 51 of the Act requires that when a landlord gives a 2 month notice for landlord's use, the rental unit must be used for the stated purpose for at least 6 months beginning within a reasonable time after the effective date of the notice. In this case, the notice indicated that the landlord intended to have a close family member occupy the rental unit. The landlord's daughter did not occupy the rental unit, and the landlord re-rented the unit four months after the tenants vacated. The landlord therefore did not use the rental unit for the purpose set out in the notice to end tenancy. Whether the landlord intended in good faith for his daughter to occupy the unit at the time he issued the notice is not relevant to this portion of the Act. Therefore, the tenants are entitled to the compensation claimed under section 51 of \$2106.

As their application was successful, the tenants are also entitled to recover the \$50 filing fee for the cost of their application.

Conclusion

I grant the tenants an order under section 67 for the balance due of \$2156. This order may be filed in the Small Claims Court and enforced 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*.

Dated: June 24, 2011.

Residential Tenancy Branch