



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened by way of conference call in response to an application made by the tenant for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

The tenant attended the hearing with an advocate, however despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on August 5, 2011, the landlord did not attend. The tenant provided testimony of having mailed the documents by registered mail the day after filing the application with the Residential Tenancy Branch, and provided a tracking number from Canada Post. The tenant also testified that the Canada Post delivery confirmation shows that the landlord received the hearing package on August 8, 2011. The tenant's application was filed with the Residential Tenancy Branch on August 4, 2011, and I am satisfied that the tenant has served the landlord in accordance with the *Residential Tenancy Act*. The tenant gave affirmed testimony and provided an evidence package in advance of the hearing.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

The tenant testified that this month-to-month tenancy began on July 1, 2010 and ended on June 1, 2011. Rent in the amount of \$450.00 per month, plus \$5.00 per month for cable, was payable in advance on the 1st day of each month and there are no rental arrears. The landlord did not collect a security deposit from the tenant. The rental unit is a room in a basement that also has other rooms rented, and the landlord resides in the upper level of the house.

The tenant further testified that the landlord served the tenant personally on April 1, 2011 with a written notice to vacate the rental unit and told the tenant that the landlord's mother-in-law would be occupying the space. The notice was not written on any form, but was more of a note written by the landlord. The tenant told the landlord that a proper form was required. The landlord then acquired the proper form and served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property personally on May 19, 2011. A copy of the form was provided in advance of the hearing; it is dated May 11, 2011 and contains an expected date of vacancy of July 1, 2011. The reason for issuing the notice states as follows: "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother or child) of the landlord or the landlord's spouse."

On May 30, 2011 the tenant gave the landlord notice to vacate the rental unit earlier than required under the landlord's notice, a copy of which was also provided in advance of the hearing. The tenant's notice is dated May 30, 2011 and states that the tenant would be vacating the rental unit between May 30 and June 9, 2011, but the tenant had not paid June's rent. The tenant provided a copy of a receipt proving that the tenant had paid rent in full for the month of May, 2011.

The tenant contacted an advocate who wrote 2 letters to the landlord requesting payment in the amount of \$300.00, being the equivalent of one month's rent in the amount of \$450.00, less \$150.00 for 10 days of rent for the month of June, 2011. The tenant has not had any response from the landlord and requests a monetary order in the amount of \$300.00.

Analysis

The *Residential Tenancy Act* is clear with respect to compensation to a tenant when the landlord issues a notice to end a tenancy for the landlord's use of the property:

51(1) A tenant who receives a notice to end a tenancy 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.

The *Act* also provides that a tenant who receives a landlord's notice may end the tenancy earlier than the effective date of the landlord's notice by giving the landlord written notice and by paying the landlord the proportion of the rent due to the effective date of the tenant's notice on the date the tenant's notice is given.

I accept the testimony and the evidence of the tenant that on May 30, 2011 the tenant provided the landlord with a written notice to vacate the rental unit by June 9, 2011, and the tenant is obligated to pay the landlord 9 days rent, having paid rent for the month of May, 2011. The tenant did not pay the landlord the proportion of rent for the 9 days in June, and the landlord did not pay the tenant the equivalent of one month's rent. However, nothing in the *Act* forgives the landlord's responsibility if the tenant doesn't pay the proportion of rent due on the date the tenant's notice is given.

I further find that in a month that has 30 days, the rental amount is \$15.00 per day, and June has 30 days. I further find that the landlord has not provided the tenant with the compensation provided for in the *Residential Tenancy Act*, and the tenant is entitled to recovery of the difference between one month's rent and \$15.00 per day for 9 days, for a total of \$315.00. The tenant will have a monetary order in that amount.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$315.00. This order is final and binding on the parties and may be enforced.

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: November 08, 2011.

Residential Tenancy Branch