



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, OLC, OPT, FF*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for a monetary order for compensation and the filing fee. The tenant also applied for an order directing the landlord to comply with the *Act* and for an order of possession. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

At the start of the hearing, it was determined that the tenant is still in occupation of the rental unit and therefore an order of possession is not necessary. The tenant also informed me that he was in the process of moving out. Since the tenancy is ending, the tenant's application for an order directing the landlord to comply with the *Act* is also no longer relevant. Accordingly, this hearing only dealt with the tenant's application for a monetary order for compensation and the filing fee.

Issues(s) to be Decided

Is the tenant entitled to \$1,900.00 as compensation for loss under the *Act*? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on May 01, 2011 for a fixed term of one year. The end of the fixed term is April 30, 2012. The landlord stated that she had listed the house for sale about six months ago. Sometime in early March, a buyer was found and the landlord gave the tenant a verbal notice to end tenancy. The tenant started looking for a new place immediately. Soon after, the landlord spoke with the new owner who informed her that it was ok for the tenants to stay.

The tenant found a new place and on March 09, 2012, the tenant applied for compensation in the amount of one month's rent plus the security deposit (\$600.00) that he paid to hold the new rental unit. The tenant mailed the notice of hearing to the landlord on March 09, 2012.

The tenant stated that on the evening of March 09, the landlord informed him that he did not have to move. The tenant told the landlord that it was too late and that he had already made plans to move out.

The tenant agreed that the landlord had not served him with a valid notice to end tenancy, but based on her verbal notice, he looked for and found a new rental unit.

Analysis

Section 49 of the *Residential Tenancy Act* deals with a landlord's notice to end tenancy for landlord's use of property. Section 49 (5) states:

5) A landlord may end a tenancy in respect of a rental unit if

- (a) the landlord enters into an agreement in good faith to sell the rental unit,
- (b) all the conditions on which the sale depends have been satisfied, and
- (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:
 - (i) the purchaser is an individual and the purchaser, or a close family member, intends in good faith to occupy the rental unit;
 - (ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

Section 49(7) of the *Residential Tenancy Act* states that a notice under this section (49) must comply with section 52 [*form and content of notice to end tenancy*].

Section 52 of the *Residential Tenancy Act* states:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Pursuant to section 51 (1) of the *Residential Tenancy Act*, a tenant who receives a notice 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

In this case the tenant did not receive a notice that complied with Section 52 of the *Residential Tenancy Act*. The tenant received a verbal notice to end tenancy and acted on it immediately. By the time the landlord got back to the tenant with information from the new buyer, the tenant had already put down a security deposit on a new rental unit and had already made this application.

Based on the testimony of both parties, I find that the tenant did not receive a section 49 notice and accordingly is not entitled to compensation pursuant to section 51.

Since the tenant has not proven his case, he must bear the cost of filing his application.

Conclusion

The tenant's application is hereby dismissed in its entirety.

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: March 30, 2012.

Residential Tenancy Branch