

DECISION

Dispute Codes MNDC, FF

Introduction

This is an application filed by the Tenant for a monetary order for compensation under the Act, Regulation or Tenancy Agreement upon being served a 2 month notice to end tenancy for Landlord's use and recovery of the filing fee.

The Tenant attended the hearing by conference call and gave undisputed testimony. The Landlord did not attend. The Tenant provided evidence of a copy of the returned envelope from Canada Post as the Registered Mail Package sent on February 27, 2012 that the notice of hearing and evidence package was unclaimed by the Landlord. Although the Tenant failed to serve the Landlord within 3 days of receiving the notice of hearing package, I find that the Landlord is deemed properly served under the Act 5 days later on March 3, 2012.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for compensation?

Background and Evidence

The Tenant states that he was served a 2 month notice to end tenancy for Landlord's use of the rental property dated November 17, 2011 and has submitted a copy of which in evidence. The Tenant states that monthly rent was \$600.00 per month at the end of the Tenancy. The Tenant responded in a letter dated November 20, 2011 that he wished to vacate the property early by December 1, 2011. The effective date of the notice is February 1, 2012. The Tenant states that the Landlord was given verbal notice by telephone on November 20, 2011, a copy of the letter on a vehicle kept at the rental property and a copy mailed by regular post on the same date to the Landlord's home in Bridesville. The Tenant states that he vacated the rental on November 30, 2011. The Tenant states that the Landlord responded in a letter dated February 7, 2012.

The Tenant seeks the 1 month compensation equal to \$600.00 (monthly rent) in the form of a monetary order from the Landlord as per the Act.

Analysis

I find based upon the undisputed testimony and the evidence submitted by the Tenant that he was served with a 2 month notice to end tenancy for Landlord's use dated November 17, 2011. Section 50 of the Residential Tenancy Act states,

Tenant may end tenancy early following notice under certain sections

50 (1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and

(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 [*tenant's compensation: section 49 notice*].

Upon review of this section and the undisputed testimony of the Tenant, I find that the Tenant has established a claim of \$600.00 for compensation under the Act. The Tenant is also entitled to recovery of the \$50.00 filing fee. I grant the Tenant a monetary order under section 67 for the balance due of \$650.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$650.00.

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: April 17, 2012.

Residential Tenancy Branch