



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF, O

Introduction

This hearing was convened by way of conference call in repose to the tenants application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; an Order for the landlord to comply with the *Act*, Regulations or tenancy agreement; and to recover the filing fee from the tenants/ landlords for the cost of this application.

The tenant and landlords attended the conference call hearing, gave sworn testimony and were given the opportunity to cross exam each other on their evidence. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Preliminary Issues

At the outset of the hearing the tenant testifies that her claim for money owed or compensation for damage or loss is for an employment issue between the tenant and the landlords. There is no provision under the *Act* for me to deal with matters relating to employment therefore I decline jurisdiction in this matter and the tenant has subsequently withdrawn this section of her claim.

Issue(s) to be Decided

Is the tenant entitled to an Order for the landlord to comply with the Act, regulations or tenancy agreement?

Background and Evidence

Both parties agree that this tenancy started on January 03, 2012. A tenancy was established for this unit in exchange for services provided by the tenant as a manager of the building and for renovations to the 25 units including the tenants unit. These services were in lieu of rent.

The tenant testifies that she received a letter from the landlords dated April 26, 2012 that noted that the tenant's employment with the landlord was ended and as a condition of her employment the tenant was afforded a housing unit. The letter goes on to inform the tenant that she must either sign a rental agreement for her unit for a monthly rent of \$650.00 or vacate the unit on or before April 30, 2012. If the tenant fails to do either of these options the landlord intends to change the locks to the tenants unit.

The tenant testifies that her employment with the landlords was terminated on April 05, 2012 but she did pay rent as requested for May, 2012 of \$650.00. The tenant testifies that the landlord has not complied with the *Act* with regards to serving the tenant with a legal Notice to end the tenancy.

The landlords testify that the tenant was offered this unit as a condition of her employment. When the tenant's employment was terminated the landlords' state they want the tenant to vacate the unit.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to s. 48(1) of the *Act* which states:

48 (1) A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving notice to end the tenancy if

- (a) the rental unit was rented or provided to the tenant for the term of his or her employment,
- (b) the tenant's employment as a caretaker, manager or superintendent is ended, and
- (c) the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.

A also refer the parties to s. 48(3) and s. 48(4) of the *Act* which state:

(3) A notice under this section must end the tenancy effective on a date that is

- (a) not earlier than one month after the date the tenant receives the notice,
- (b) not earlier than the last day the tenant is employed by the landlord, and
- (c) the day before the day in the month, or in the other period on which the tenancy is based, that rent, if any, is payable under the tenancy agreement.

(4) A notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

Consequently, it is my decision that the landlord has failed to comply with s. 48(1), s. 48(3) and s. 48(4) of the *Act* and has not provided the tenant with a legal notice to end the tenancy because the tenant's employment with the landlord has ended.

Conclusion

I HEREBY ORDER the landlord(s) to comply with s. 48 (1), s. 48(3) and s. 48(4) of the *Act* with regard to serving the tenant with a legal Notice to End Tenancy.

As the tenant has been successful with her claim I find the tenant is entitled to recover her **\$50.00** filing fee for this proceeding and may deduct that amount from her next rent payment when it is due and payable to the landlord.

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: May 16, 2012.

Residential Tenancy Branch