



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL MNDC OLC FF

Introduction

This is the Tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Rental Property*, for compensation for damage or loss under the Act, regulation or tenancy agreement; for an Order that the Landlord comply with the Act, regulation or tenancy agreement; and to recover the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

The Tenant testified that he served the Landlord with the Notice of Hearing documents by registered mail sent July 6, 2012.

The parties acknowledged receipt of each other's documentary evidence.

Issue(s) to be Decided

- (1) Should the Notice to End Tenancy be cancelled?
- (2) Is the Tenant entitled to compensation pursuant to the provisions of Section 67 of the Act?
- (3) Should the Landlord be ordered to comply with the Act, regulation or tenancy agreement?

Background and Evidence

The rental property is a house with a separate one bedroom suite. Monthly rent is \$4,100.00. The parties signed a tenancy agreement for the whole of the rental property on July 30, 2011, a copy of which was provided in evidence. The Tenant rents out the one bedroom suite for \$750.00 per month.

The parties agreed that the Landlord has not issued a *2 Month Notice to End Tenancy for Landlord's Use of Rental Property*. The Tenant stated that the Landlord verbally gave him notice that he required the occupant of the one bedroom suite to move because the Landlord's daughter wishes to occupy it. The Tenant submitted that the Landlord also suggested that he, "....may require [the Tenant] to vacate the entire house as of September 1, 2012, unless [the Tenant] renegotiates the Lease and agrees to pay a substantially higher rent for that portion of the house not required..." for the Landlord's

family member. The Tenant stated that he relied on the Landlord's verbal notice and that he has secured a new tenancy elsewhere. The Tenant seeks an Order that the Landlord comply with the Act and provide him with the equivalent of one month's free rent (\$4,100.00) pursuant to the provisions of Section 51 of the Act.

Analysis

Based on the testimony of both parties, I find that no *2 Month Notice to End Tenancy for Landlord's Use of Rental Property* exists and therefore the Tenant's application to cancel it is dismissed.

Section 52 of the Act states:

Form and content of notice to end tenancy

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.**

(emphasis added)

As I explained to the Tenant, a verbal notice to end a tenancy is not an effective notice, further to the provisions of Section 52 of the Act.

Section 67 of the Act states:

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

In order to be successful in his claim under Section 67 of the Act, the Tenant must provide sufficient evidence that he suffered damage or loss resulting from the Landlord failing to comply with the Act, regulations or the tenancy agreement. I find that the

Tenant did not provide sufficient evidence that the Landlord failed to comply with the Act, regulations or tenancy agreement and therefore this portion of his application is dismissed.

Section 51 of the Act states:

Tenant's compensation: section 49 notice

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.

(emphasis added)

I find that the Tenant did not receive a notice to end the tenancy under Section 49 of the Act and that therefore the Tenant's applications for an Order that the Landlord comply with Section 51 of the Act is dismissed.

The Tenant has not been successful in his application and I find that he is not entitled to recover the cost of the filing fee from the Landlord.

It is important to note that at the end of the Hearing, the parties came to a mutual agreement to end the tenancy effective August 31, 2012, and asked me to record that mutual agreement in this Decision.

Conclusion

The Tenant's application is dismissed.

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: July 20, 2012.

Residential Tenancy Branch