



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 as a result of the tenant's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "*Act*"). The tenant applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

The tenant appeared at the teleconference hearing and gave affirmed testimony and had the dispute resolution process explained to her.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The tenant provided affirmed testimony that the Notice was served on the landlord via personal service on January 14, 2013, at the rental unit which was witnessed by a third party, CK. The tenant testified that she served the evidence package on the landlord on March 25, 2013 via personal service to the landlord at the rental unit address. I find the landlord was sufficiently served in accordance with the *Act*.

Issue to be Decided

- Is the tenant entitled to a monetary order under the *Act*?

Background and Evidence

A month to month verbal tenancy agreement began on September 1, 2008. Monthly rent in the amount of \$730.00 was due on the first day of each month and was never increased during the term of the tenancy. The tenant paid a security deposit of \$365.00 at the start of the tenancy.

The tenant stated that the landlord advised her verbally that the tenancy would be ending due to landlord's use of the rental unit. The tenant confirmed that a 2 Month Notice to End Tenancy for Landlord's Use of Property (a "2 Month Notice") was never issued by the landlord. The tenant vacated the rental unit on December 31, 2012 based on the landlord's verbal request for her to vacate the rental unit. The tenant stated that landlord compensated her in the amount equivalent of one month's rent when she vacated the rental unit, and also returned her security deposit in full.

The tenant is seeking compensation in the amount of two month's rent for a total of \$1,460.00 due to the landlord placing the rental unit back up for rent as of January 15, 2013 when the tenant vacated the rental unit two weeks earlier on December 31, 2012.

Analysis

Based on the documentary evidence, the oral testimony of both parties, and on the balance of probabilities, I find the following.

Section 51 of the *Act* states:

(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.

(2) **In addition to the amount payable under subsection (1), if**

(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

(b) **the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,**

the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

In the matter before me, the tenant confirmed during the hearing that although the landlord verbally asked her to vacate the rental unit, the landlord did not issue a 2 Month Notice under the *Act* under section 49 of the *Act*. As a result, **I find** a 2 Month Notice was not issued by the landlord and that section 51 of the *Act* does not apply as a result. Therefore, **I dismiss** the tenant's application in full as the tenant was not served

with a 2 Month Notice under section 49 of the *Act* which is required when seeking compensation under section 51 of the *Act*.

Conclusion

I dismiss the tenant's application in full, without leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 04, 2013

Residential Tenancy Branch

