



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC and FF

Introduction

This hearing was convened on the tenants' application of April 11, 2013 seeking a Monetary Order for loss or damage under the legislation or rental agreement and recovery of the filing fee for this proceeding.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order as requested?

Background, Evidence and Analysis

This tenancy ran from June 1, 2005 to November 30, 2011. Rent was \$1,739 per month and the security deposit was granted to the landlord as part of a monetary award during a hearing on February 23, 2012 on the landlord's application..

In the present matter, the tenants seek a monetary award under section 51 of the Act on the grounds that the landlord did not use the rental unit for the purpose stated in a Notice to End Tenancy for landlord use served in September 2011, and in particular, did not have required permits.

While the landlord submitted a copy of the required permit into evidence, I note that this tenancy ended on a settlement agreement arrived at during a hearing on November 7, 2011. By that agreement, the tenants agreed to vacate the rental unit on November 30, 2011 and they were granted free rent for November 2013 plus an award of \$500.

Therefore, I must find that the tenancy ended by a settlement agreement and the tenants may not bring an action under section 51 of the *Act* which is applicable only when a tenancy had ended pursuant to a notice for landlord use.

In this case, while there had been a notice for landlord use, the tenancy did not end under that notice but under the subsequent settlement agreement of November 7, 2011. The tenants freely agreed to end the tenancy and were given due consideration. The landlord was granted an Order of Possession based on the settlement agreement, not on the previous notice. This application is dismissed on its merits without leave to reapply.

Conclusion

The application is dismissed without leave to reapply.

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 12, 2013

Residential Tenancy Branch

