



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC RR O FF

Introduction:

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- (a) A monetary order pursuant to sections 49, 50 and 51 for a rent refund as the landlord served a notice under section 49 for landlord's use of the property and did not provide a free month's rent contrary to section 51;
- (b) Compensation for lack of use of a washing machine for over 8 weeks; and
- (c) recovery of the filing fee for this application.

SERVICE

Both parties attended the hearing and the landlord confirmed receipt of the Application for Dispute Resolution by registered mail. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that they are entitled to a refund of one month's rent and compensation for loss of use of a washing machine? Are they entitled to recover filing fees for the application?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in September 2012, that rent was \$2300 a month including laundry facilities and a security deposit of \$1150 was paid on August 12, 2012. It is undisputed that the landlord sold the property to a relative and gave a hand written note to the tenant on January 1, 2013 asking them to vacate in two months at the end of February, 2013. The parties agree it was not an official notice and was not signed by the landlord. The tenants told the landlord it was not legal and did not move out until April, 2013. The tenants claim that they should have been entitled to a free month's rent as they got a Notice under section 49 for landlord's use of the property. They claim \$2300.

The tenants also claim \$450 for loss of use of the washing machine which was broken from December 10, 2012 to February 4, 2013. Their calculation is based on

\$9 a load at the Laundromat for each of five tenants for 10 wash days. The landlord does not deny this claim and said he would have been willing to pay them if they had provided receipts at the time.

In evidence is a copy of the tenancy agreement, a rent receipt and a photograph of the washing machine.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

In respect to compensation for a Notice to End Tenancy under section 49, the Act states:

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.

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.

I find as fact that the unsigned letter given by the landlord on January 1, 2013 was not an effective Notice to End Tenancy. It was not in the approved form and not signed as required by section 52. I find the tenants were aware of this at the time and pointed it out to the landlord; they refused to move out until they were ready. Therefore, I find they are not entitled to compensation under section 51 for an ineffective notice which they disregarded.

I find the landlord does not deny they have a claim for lack of a washer but notes they provided no receipts. I find it not unreasonable that it cost \$9 a load at a local Laundromat and that they would not have receipts as most machines automatically use coins. However, I find they were without a washer for 56 days (Dec. 10- Feb. 4) and this equals 8 weeks. 5 tenants x \$9 a load each week x 8 weeks is \$360. I find the tenants entitled to a monetary order for \$360.

Conclusion:

I find the tenants entitled to a monetary order for \$360 for the reasons stated above and to recover their filing fee for this application for a total of \$410. A monetary order is enclosed.

I dismiss the other claims of the tenant 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: January 09, 2014

Residential Tenancy Branch

