



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant confirmed that the landlord handed her a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) on September 26, 2013. The landlord confirmed that on January 15, 2014, the tenant handed him a copy of her dispute resolution hearing package. I am satisfied that both parties handed one another the above documents in accordance with the *Act*.

Issues(s) to be Decided

Is the tenant entitled to a monetary award for losses or damages arising out of this tenancy? Is the tenant entitled to recover her filing fee for this application from the landlord?

Background and Evidence

This periodic tenancy began on July 1, 2009, by way of an oral agreement. By the end of this tenancy, monthly rent was set at \$630.00, payable in advance on the first of each month. The landlord has returned the tenant's \$300.00 security deposit, paid when this tenancy began.

The landlord's 2 Month Notice identified November 30, 2013, as the effective date for the end of this tenancy. By way of a mutual agreement between the parties, the

landlord allowed the tenant to remain in the rental unit until December 15, 2013, by which time the tenant had vacated the rental unit. The landlord confirmed that the tenant paid her full rent for October and November 2013, and paid him his requested one-half of the monthly rent for December 2013.

The tenant applied for a monetary award of \$630.00, an amount equivalent to one month's rent. She gave undisputed sworn testimony that the landlord did not forego the rent for the last month of her tenancy and did not issue her a payment of \$630.00 to reimburse her for the 2 Month Notice he issued to her. The landlord said that he was unaware that he was responsible for paying the tenant a full month's rent as a result of issuing the 2 Month Notice.

Analysis

The landlord's 2 Month Notice, issued pursuant to section 49 of the *Act* and entered into written evidence by the tenant, identified the following reason for seeking an end to this tenancy:

- *The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse...*

Section 51(1) of the *Act* reads as follows:

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.*

Based on the undisputed evidence of the tenant, I find that the tenant is entitled to compensation as set out in section 51(1) of the *Act*. I make this finding as the landlord has not provided any compensation to the tenant for issuing the 2 Month Notice under section 49 of the *Act*. I therefore find that the tenant is entitled to the recovery of one month's rent. The monthly rent by the end of this tenancy was \$630.00. I therefore find that the tenant is entitled to a monetary order in the sum of \$630.00 as claimed.

Having been successful in this application, I find that the tenant is also entitled recover the \$50.00 filing fee paid for her application from the landlord.

At the hearing, the tenant said that she believed that she may also be entitled to further compensation from the landlord as the landlord may not have used the premises for the purpose set out in his 2 Month Notice. I advised the parties that this issue was not

properly before me as the tenant's application had only sought to return one month's rent of \$630.00 from the landlord. If the tenant has further claims in this regard, her mechanism for doing so would be to submit a new application for dispute resolution and properly inform the landlord of any additional amount she is seeking as a result of this tenancy.

Conclusion

I issue a monetary award in the tenant's favour in the amount of \$680.00. This monetary Order is issued as a result of the landlord's failure to abide by the requirements of section 51(1) of the *Act* (\$630.00) and for the recovery of the tenant's filing fee (\$50.00).

The tenant is provided with these Orders in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: April 30, 2014

Residential Tenancy Branch

