



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, OLC, FF, O

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by Tenant for money owed or compensation for loss under the *Residential Tenancy Act* (the “Act”), for the Landlord to comply with the Act, to recover the filing fee, and for ‘Other’ issues of which none were identified throughout the hearing.

Both parties appeared for the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenant’s Application and written evidence by registered mail, which I determined had been served in accordance with the Act and the Rules of Procedure. No written evidence was provided by the Landlord prior to the hearing.

Preliminary Submissions

The Tenant and Landlord agreed that they signed a written tenancy agreement for a fixed term tenancy on April 1, 2012 for a period of one year, after which it was amended and renewed for another year in May, 2013 which was due to end on April 30, 2014. However, the tenancy agreement did not require the Tenant to vacate the rental unit at the end of the fixed term.

The Tenant explained that in February, 2014 the Landlord wrote him a letter which stated that due to circumstances out of his control he would be ending the tenancy at end of April, 2014. The Tenant explained that as a result he found another rental suite to move to and in accordance with the letter he moved out of the rental suite on May 2, 2014.

The Tenant submitted that the Landlord had no right or reason to end his tenancy and that he should have been given a 2 Month Notice for Landlord’s Use of the Property. As a result, the Tenant claimed the compensation that he would have been eligible for under Sections 51(1) and 51(2) of the Act in the amount of 1,800.00. In addition the

Tenant claims an estimated \$200.00 for moving expenses that he incurred as a result of being illegally evicted.

The Landlord explained that he provided the Tenant written notice two months prior to the Tenant leaving and that the Tenant also over held the tenancy for two days. The Landlord submitted that his understanding was that he was entitled to end the tenancy because it was a fixed term tenancy with an end date of April 30, 2014 and that he was seeking to give the Tenant plenty of notice so as to not hinder him.

I explained to the Landlord the provisions of Section 44 of the Act which specifies the conditions under which a tenancy may be ended. In particular, I pointed to Section 44 (1) (b) of the Act which states that a tenancy can be ended if the tenancy agreement requires the Tenant to vacate the rental suite at the end of the fixed term.

However, if the tenancy agreement does not require the Tenant to vacate the rental suite at the end of the fixed term, and in this case it did not, then Section 44(3) of the Act states the fixed term tenancy continues as a periodic tenancy. Based on the foregoing, the Landlord did not have a right to end the tenancy for the reasons provided to the Tenant.

In relation to the Tenant's monetary claim, I found that the evidence provided by the parties in relation to the circumstances around the ending of the tenancy do not apply to the compensation requirements of Section 51 of the Act. The Landlord provided no legal notice that would require the Landlord to pay compensation and did not represent the end of the tenancy based on the Landlord's use of the property; rather it was ended on an assumption that the tenancy agreement was going to end. In addition, there was no promise or indication made by the Landlord for monetary compensation that may have suggested that the circumstances required compensation under Section 51(1) of the Act.

Furthermore, the compensation requirements of Section 51(2) of the Act are not applicable in this case as this only applies when a Tenant can prove that the Landlord has not used the property for the use indicated on a 2 Month Notice to End Tenancy for Landlord's Use of Property.

The Tenant claimed that he was pressured by the Landlord to leave the tenancy but failed to provide sufficient evidence of how the Landlord forced him into vacating the tenancy.

The Tenant provided insufficient evidence of his moving costs claimed and I explained that these would be regarded as costs he would incur when his tenancy would have eventually ended.

However, I explained to the parties that the Landlord had breached the Act in the manner the tenancy was ended and the Tenant would be liable for an appropriate amount of compensation under Section 7(1) of the Act.

I offered the parties an opportunity to discuss between them an amount for this compensation payable by the Landlord and the parties decided that it was best that this amount be decided through mutual agreement.

Settlement Agreement

Pursuant to Section 63 of the Act, the arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. Both parties agreed to settle the Tenant's Application in full as follows:

The Landlord agreed to pay the Tenant **\$300.00** in full satisfaction of the Tenant's Application. The Tenant is issued with a Monetary Order in the amount of \$300.00 which is enforceable in the Small Claims court **if** the Landlord fails to make payment.

The Landlord is cautioned to retain documentary evidence of payment made to meet the terms and conditions of the above agreement. This agreement and order is fully binding on the parties.

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: September 25, 2014

Residential Tenancy Branch

