



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant, the landlord and her agent.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation owed and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 51, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed to the following:

- The tenancy began in February 2014 as a month to month tenancy for the monthly rent of \$845.00 due on the 1st of each month and that the tenant vacated the rental unit by May 31, 2014; and
- The landlord issued a 2 Month Notice to End Tenancy for Landlord's Use of Property on April 26, 2014 with an effective date of June 30, 2014 citing 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.

The tenant submits that he has evidence to confirm that the landlord had a new tenant living in the rental unit. The landlord confirmed that she had a new tenant move into the rental unit in October 2014.

The landlord testified that she had concerns about the tenant establishing a business out of the rental unit and she herself had had some health problems. She further stated that she had intended for her granddaughter to live in the rental unit so she would be close if the landlord needed some assistance. The landlord stated that her health improved and it was decided her granddaughter would not move in to the rental unit. The landlord did re-rent the unit to the new tenant effective October 1, 2014.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit, and that a close family member is the landlord's father, mother or child or the father, mother or child of the landlord's spouse.

As such, in order to comply with this purpose the landlord's father, mother, or child must have moved into the rental unit or steps must have been taken for the landlord's father, mother, or child to move in within a reasonable time after the end of the tenancy. However, as per the landlord's testimony her intention was to have her granddaughter move in to the rental unit, which does not comply with the requirements under Section 49 of the *Act*.

Section 51 of the *Act* states that a tenant who receives a notice to end 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.

Section 51(2) states that in addition, if steps have not been taken to accomplish the stated purpose for ending the tenancy under Section 49 within a reasonable time after the effective date or 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 must pay the tenant an amount that is the equivalent of double the amount of rent payable under the tenancy agreement.

Despite the landlord's testimony that she felt that a reasonable time had lapsed, I find that because the landlord was never going to have a close family member move in to the rental unit and she later then rented it to a new tenant (within 4 months of the end of this tenancy) the landlord must compensate the tenant in accordance with Section 51(2).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,740.00** comprised of \$1,690.00 compensation owed and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order 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: May 27, 2015

Residential Tenancy Branch

