



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes mndc, olc, ff

Introduction

The tenants apply for monetary compensation equal to one month's rent, following their tenancy having been ended for landlord use.

Issues to Be Decided

Are the tenants entitled to the claimed compensation?

Background and Evidence

The tenants testified that this tenancy began October 1, 2014 with monthly rent of \$750.00. On February 2, 2015, they received a 2 month notice to end the tenancy, effective April 2, 2015, which stated the rental unit would be occupied by the landlord or a close family member. The tenants paid all of February's rent. They verbally advised the landlord on February 15 that they had found a new suite, and would move out March 1. The tenants moved out on that date, but since the landlord was away, were unable to return their key until March 31. The tenants submitted that the landlord was annoyed that they were moving out early, and said he did not have to pay them any compensation.

The landlord testified that he first discovered the tenants were gone at some time in mid-March. He never received any notice from the tenants they were leaving early. He received no rent for March. He did a walk through with them March 31 and returned their deposit at that time, and at that time the tenants returned their keys to him.

Analysis

There are several critical sections of the Residential Tenancy Act that govern this dispute. Firstly, when a 2 month notice is given for landlord use of the premises, section 51(1) of the Residential Tenancy Act entitles the tenants to receive from the landlord on or before the effective date of the landlord's notice, an amount that is equivalent of one month's rent.

Secondly, pursuant to section 51(1.1), a tenant is permitted to withhold the last month's rent, in which case the amount of the section 51(1) compensation is deemed to have been paid as rent to the landlord for the final month.

Finally, when a 2 month notice is given for landlord use of the premises, section 50(1) permits a tenant to end a tenancy earlier than the 2 month period, by giving at least 10 days written notice. If such notice is given, the section 51(1) compensation remains payable.

In this case I find that at no time after receiving the two month notice did the tenants provide a written notice to the landlord, in order to end their tenancy earlier than the effective date in the Notice. Even if a verbal notice was given, that verbal notice would not fulfil the requirements of section 50(1), or be effective to end the tenancy early.

As the tenants did not formally end their tenancy early with a written section 50(1) notice, and given that their keys were not returned to the landlord until March 31, and given also that no rent was paid for March, the deeming provision of section 51(1.1) applies in this case, and the compensation that was payable to the tenants is deemed to have been applied as against March's rent.

On this basis, I therefore find the landlord has no further obligation to compensate the tenants, and the tenants' claim for compensation, and to recover their filing fee, is dismissed.

Conclusion

The claim is dismissed.

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 09, 2015

Residential Tenancy Branch

