



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with a tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*") for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The tenant, the landlord, and the spouse of the landlord appeared at the teleconference hearing. The tenant and landlord gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The landlord confirmed that he received the documentary evidence from the tenant and that he had the opportunity to review that documentary evidence prior to the hearing. The landlord confirmed that he did not submit any documentary evidence in response to the tenant's application. I find the landlord was served in accordance with the *Act*.

Issues to be Decided

- Is the tenant entitled to a monetary order for money owed or compensation under the *Act*, regulation or tenancy agreement, and if so, in what amount?
- Is the tenant entitled to the recovery of his filing fee under the *Act*?

Background and Evidence

The parties agreed that a fixed-term tenancy began on February 1, 2014 and reverted to a month to month tenancy after August 31, 2014. Monthly rent of \$1,600 was due on the first day of each month. The tenant paid an \$800 security deposit and \$800 pet damage deposit at the start of the tenancy.

The parties agreed that the tenant vacated the rental unit on May 31, 2015 after having received a 2 Month Notice dated March 31, 2015. The March 31, 2015 document was submitted in evidence and is signed by the landlord and his spouse. The landlord writes in the document that they have sold their home and they have to terminate the tenancy by May 31, 2015 and wishes the tenant the best in finding a new home.

There was no dispute during the hearing that the landlord issued a notice two months in advance for the sole purpose of ending the month to month tenancy based on the landlord selling his home.

The landlord stated several times that the tenant was looking for “free money” by seeking a free month of rent from the landlord. The tenant’s response was that he was simply requesting what he was entitled to under section 51 of the *Act* as he relied on the landlord providing a two month notice to end the tenancy. The tenant stated that while he knew the landlord used the incorrect form to provide the 2 Month Notice to End Tenancy for Landlord’s Use of Property, he did not dispute the landlord’s notice as it was dated March 31, 2015 and he knew that if he receive the proper form on April 1, 2015, it was delay the landlord another month if he had to re-issue the new notice. The landlord did not dispute that point during the hearing. The parties were unable to reach a settlement agreement regarding this dispute.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Tenant’s claim for compensation – The tenant has claimed a total of \$1,600, plus the \$50 filing fee, for compensation based on the landlord serving the tenant with what the parties agreed was a two month notice to end the tenancy as the landlord sold his home. There was no dispute that the tenant vacated the rental unit on May 31, 2015 based on the landlord’s two month notice to end the tenancy dated March 31, 2015.

I find that the tenant relying upon the March 31, 2015 letter from the landlord to constitute a 2 Month Notice under the *Act*, to be reasonable. I find that while the landlord failed to use the approved form as required by section 52 of the *Act*, when issuing a 2 Month Notice under section 49 of the *Act*, the 2 Month Notice as issued is still valid as it contains the essential information and was relied upon by both parties. As a result of the above, I will refer to the March 31, 2015 letter issued by the landlord as the 2 Month Notice for the duration of this Decision.

I **caution** the landlord to comply with the *Act* in the future when issuing a 2 Month Notice under section 49 of the *Act*, including using the approved form under the *Act*.

The tenant did not dispute the 2 Month Notice issued on March 31, 2015, and there was no dispute that the tenant vacated on May 31, 2015 based on the 2 Month Notice.

Section 51(1) of the *Act* states:

Tenant's compensation: section 49 notice

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**.

[my emphasis added]

Based on the above, I find the landlord breached section 51 of the *Act* and owes the tenant **\$1,600** in compensation under the *Act*. This amount is the equivalent of one month's rent, having issued the tenant a 2 Month Notice under the *Act* with an effective vacancy date of May 31, 2015.

As the tenant's application has merit, I grant the tenant the recovery of the cost of the filing fee in the amount of **\$50**.

I find that the tenant has established a total monetary claim of **\$1,650** consisting of compensation for equivalent of one month's rent pursuant to section 51 of the *Act*, plus the recovery of the cost of the \$50 filing fee. I grant the tenant a monetary order pursuant to section 67 of the *Act*, in the amount of \$1,650. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant's application is successful.

The tenant has been granted a monetary order pursuant to section 67 of the *Act*, in the amount of \$1,650. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The landlord has been cautioned to comply with the *Act* in the future when issuing a 2 Month Notice under section 49 of the *Act*, by using the approved form under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: November 2, 2015

Residential Tenancy Branch

