



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing. Neither party raised any issues with respect to the exchange of evidence.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The relevant facts are not in dispute. The parties agreed that the tenancy began on September 1, 2012 and rent was set at \$1,350.00 per month. They further agreed that the tenancy ended on February 28, 2015 pursuant to a 2 month notice to end tenancy (the "Notice") served on the tenant by the landlord. The Notice stated that the landlord intended to occupy the rental unit.

The landlord claimed that he occupied the rental unit for the month of March 2015 while the tenant claimed he did not occupy it at all. Both parties agreed that the unit was re-rented to other tenants in April 2015. The landlord testified that while he had intended in good faith to occupy the rental unit on a more permanent basis, for family reasons he chose to return to his family home in April.

Analysis

The Notice was served on the tenant pursuant to section 49 of the Act. Section 51 provides as follows:

51(2) In addition to the amount payable under subsection (1), if

- 51(2)(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or
- 51(2)(b) 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, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

The landlord acknowledged that he did not reside in the rental unit for at least 6 months. Because the Act requires that the landlord use the unit for the stated purpose for at least 6 months and because there is no discretion given under the Act which allows me to determine that the landlord may be excused from paying the penalty outlined in section 51, I find that the landlord is responsible to pay the tenant the equivalent of 2 months' rent. I therefore award the tenant \$2,700.00. As the tenant has been successful in this claim, I find she should recover the filing fee paid to bring her application and I award her \$50.00 for a total entitlement of \$2,750.00. I grant the tenant a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant is awarded \$2,750.00.

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: March 01, 2016

Residential Tenancy Branch

