



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord attended the conference call hearing and gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agreed that this tenancy started on December 01, 2014 with another verbal agreement commencing on March 01, 2015. Rent for this unit, at the end of the tenancy, was \$600.00 per month.

The tenant testified that the landlord was trying to sell the property and the tenants all signed a mutual agreement to end their tenancy on August 01, 2015. This agreement has been provided in documentary evidence by the landlord and shows it was signed by the landlord and three tenants on June 01, 2015. The tenant testified that the landlord said the tenants did not have to pay the last month's rent. The tenant testified that he did pay the last month's rent and now requests a Monetary Order to recover that amount of \$600.00.

The tenant testified that after he vacated the rental unit he went to collect his mail and found someone else was living in the rental unit. The tenant testified that he sought advice from the Residential Tenancy Branch and was told the landlord cannot re-rent the unit to new tenants if he

has served the tenant with a Two Month Notice to End Tenancy for landlords use of the property. The tenant requests to recover compensation equal to two months' rent to an amount of \$1,200.00. The landlord testified that he has not served the tenant with a Two Month Notice to End Tenancy for Landlords Use of the Property. The tenant only signed a mutual agreement to end tenancy. The landlord testified that the tenant willingly paid the rent for the last month and the landlord disputes that he is entitled to this as it was paid willingly by the tenant.

The landlord testified that he did not re-rent the unit; he had a guest in the unit for three weeks and referred to a letter provided in documentary evidence concerning the purpose for this guest's stay.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to s. 44(1)(c) of the *Act* which states how a tenancy can be ended and provides that a tenancy can be ended if the landlord and tenant agree in writing to end the tenancy.

I find the parties did sign a mutual agreement to end the tenancy and the landlord did not serve the tenant with a Two Month Notice to End Tenancy for Landlords Use of the Property under s. 49 of the *Act*.

Consequently, with regard to the tenant's application for compensation due to a Two Month Notice for an amount equal to the last month's rent and an amount equal to two months' rent, there is no provision under the *Act* for compensation to be awarded to a tenant if the landlord has not served the tenant with a legal Two Month Notice under s. 49 of the *Act*. This compensation is only awarded if a two Month Notice has been served upon a tenant. When the tenant mutually agrees to end the tenancy then the tenant is not entitled to compensation under s. 51(1) and s. 51(2)(b) of the *Act*.

As the tenant's application has no merit, the tenant must bear the cost of filing his own application.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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: April 05, 2016

Residential Tenancy Branch