



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation pursuant to a notice to end tenancy for landlord's use of property. I accept the tenant's testimony that he served the landlord with the notice of hearing by registered mail on January 18, 2016. Despite having been served with the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issue to be Decided

Is the tenant entitled to compensation?

Background and Evidence

The tenancy started 13 years ago. The monthly rent at the end of the tenancy was \$1,234.00 due on the first of each month. On October 26, 2015, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The tenant filed a copy of the notice to end tenancy which stated that the reason for the notice was that the landlord or a close family member intended to move into the rental unit. The notice had an effective end date of January 01, 2016.

The tenant stated that on December 05, 2015, he wrote a note to the landlord informing the landlord that he would be moving out on December 21, 2015. The tenant testified that the landlord returned his rent for December as compensation pursuant to section 51 of the *Act*. The tenant moved out on December 21, 2015. He requested the landlord for compensation for the remainder of the month's rent free stay. The landlord replied agreeing to compensate the tenant for the 10 days of rent, but failed to do so.

Analysis

Section 51 of the *Act* sets out that a tenant who receives a notice to end tenancy for landlord's use is entitled to compensation equivalent to one month's rent.

The compensation may be in the form of one of the following:

- 1) financial restitution, where the landlord pays the tenant the equivalent of one month's rent on or before the effective date of the two month notice,
- 2) occupancy, where the tenant withholds the last month's rent and occupies the rental unit rent-free for that last month, or
- 3) a combination of both.

Under section 50 of the Act, a tenant who has received a notice to end tenancy for landlord's use may end the tenancy early by giving a written 10 day notice to end the tenancy on a date earlier than the effective date of the landlord's notice.

In this case, the tenant received the notice to end tenancy for landlord's use of property under Section 49. The tenant provided at least ten days' notice to end the tenancy prior to the end date of the notice to end tenancy.

Based on section 51 of the *Residential Tenancy Act*, the compensation that the tenant is entitled to receive, may be in the form of a combination of a rent free stay and financial restitution. The tenant occupied the unit rent free until December 21 and therefore is entitled to be compensated for the equivalent of the balance of the month's rent. (10 days). Accordingly I find that the tenant is entitled to \$398.00

Since the tenant has proven his case, he is entitled to the filing fee of \$100.00. I grant the tenant an order under section 67 of the *Residential Tenancy Act* for 498.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of \$498.00.

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: July 07, 2016

Residential Tenancy Branch