



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Is the tenant entitled to the recovery of the filing fee for this application?

Background, Evidence

The tenants' testimony is as follows. The tenancy began on April 1, 2015 and ended on April 1, 2016. The tenants were obligated to pay \$2400.00 per month in rent in advance on the first of each month. The tenant testified that on February 19, 2016 he received a Two Month Notice to End Tenancy for Landlords Use of Property with an effective date of April 30, 2016. The tenant testified that on March 4, 2016 he advised the landlord that he would be moving out by March 31, 2016. The tenant testified that he asked the landlord if he could stay one extra day; which the landlord agreed to. The tenant testified that he has not received his one month's compensation as per the notice issued and seeks that along with his filing fee.

The landlord gave the following testimony. The landlord testified that she agreed to allow the tenant to stay until April 1, 2016 and that was the end of the matter. The landlord testified that she called the Branch three times and was told that she was not required to pay any money. The landlord testified that she feels that it was the tenants choice to move out early as he could have remained in the unit until April 30, 2016.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings are set out below.

Sections 50 and 51 of the Act address the issue before me as follows:

Tenant may end tenancy early following notice under certain sections

50 (1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and

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.

Both parties confirmed that the tenant gave written notice on March 4, 2016 that he would be vacating by March 31, 2016. Both parties also confirmed that a verbal agreement was reached allowing the tenant to move out one day later. This agreement did not relieve the landlord of their obligation under the Act nor did it extinguish the tenant's right to compensation as outlined above. I find that the tenant is entitled to \$2400.00.

The tenant is also entitled to the recovery of his \$100.00 filing fee.

Conclusion

The tenant has established a claim for \$2500.00. I grant the tenant an order under section 67 for the balance due of \$2500.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: November 07, 2016

Residential Tenancy Branch