



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 an application by the tenant for a monetary order for compensation for loss under the *Act* and for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to compensation and to the recovery of the filing fee?

Background and Evidence

The tenancy started about seven years ago and ended pursuant to a notice to end tenancy for landlord's use of property, dated March 31, 2016. The reason for the notice was, "*The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.*" The tenant moved out on May 30, 2016.

The tenant stated that shortly after he moved out, the landlord gave him a cheque in the amount of \$1,000.00 as thanks for accommodating the landlord's request to vacate the rental unit. The tenant accepted the cheque. The tenant stated that sometime later he noticed that the landlord had listed the rental unit as available for renting on Air BnB. The landlord joined the organisation as a host in June 2016 which was immediately after the tenant moved out.

The landlord stated that the rental unit had one bedroom but also had a flexible space that he turned into a second bedroom. He stated that he moved into the rental unit and rented out the second bedroom that he had created. The tenant pointed out that the landlord had advertised the availability of a two bedroom unit and also filed evidence to support his testimony that the unit was rented out as a two bedroom unit as early as July 2016. The landlord argued that he rented out both bedrooms only on certain days and used the main bedroom as his primary residence. When both bedrooms were rented out he stayed in another part of the four storey home.

The tenant also filed evidence to demonstrate that this rental arrangement through Air BnB was ongoing.

Analysis

Pursuant to Section 51 of the *Residential Tenancy Act*, a tenant who receives a notice to end tenancy under Section 49 which is for landlord's use of property and the rental unit is not used for the stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

In this case, the tenant received the notice to end tenancy for landlord's use of property under Section 49. The notice indicated that the landlord intended in good faith to occupy the rental unit. Based on the testimony of both parties and the evidence filed by the tenant, I find that the landlord advertised and rented out the bedroom and accordingly did not use the rental unit for the stated purpose for a period of at least six months, I find that the landlord must pay the tenant \$1,880.00 which is the equivalent of double the monthly rent. The tenant has proven his case and is entitled to the filing fee of \$100.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of \$1,980.00. 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 **\$1,980.00**.

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: December 13, 2016

Residential Tenancy Branch