



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sutton Centre Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by both tenants and two landlords.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for compensation, pursuant to Sections 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

Both parties submitted a copy of a tenancy agreement signed by the parties on February 1, 2015 for a 1 year and 21 day fixed term tenancy beginning on March 10, 2015 for a monthly rent of \$1,850.00 due on the 1st of each month with a security deposit of \$925.00 paid.

The landlord submitted a copy of a document entitled "Addendum to Renew or Extend Lease Agreement" signed by the parties by March 2, 2016 extending the term of the tenancy to end March 31, 2017. The parties agree the tenants vacated the rental unit by May 10, 2016.

The tenants submitted that after signing the extension to their tenancy agreement the landlord AF contacted them by email stating that they needed to discuss ending the tenancy early because the owner of the property need to provide it to a close family member. The tenants provided a copy of an email from AF dated April 4, 2016 confirming this.

The tenants testified that the landlord stated they needed the rental unit by August 31, 2016 and that they would pay the tenants compensation in the equivalent of one month's rent or \$1,850.00. The tenants confirmed that they did not set this agreement

to writing and that the landlord never issued a 2 Month Notice to End Tenancy for Landlord's Use of Property at any time during the tenancy.

The tenants submitted that they were able to secure new rental accommodation and move out of the rental unit by May 10, 2016. To the date of the hearing the tenants have not received any compensation from the landlord.

The landlords submit that at no time did they agree to a mutual agreement to end the tenancy or compensate the tenants. They submitted that while they had had the above noted discussions a 2 Month Notice was never issued to the tenants. The landlords submit that it was not until April 26, 2016 that they were informed of the tenants' intent to vacate the rental unit in May 2016, by phone and that no written notice was ever received by the landlords.

The tenants confirmed that they called the landlord on April 26, 2016 to advise them of their plans to move out in May 2016. However, they also submitted that the landlords were helping them find new accommodation and as such were aware of their intentions to find new accommodation as soon as possible.

The landlords testified that as a result of the short notice from the tenants of their intention to move out the landlord has not received any rent for the month of May 2016.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if, among other reasons the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. Section 51 of the *Act* states that a tenant who receives a notice to end 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.

In the case before me, I find, from the testimony of both parties that the landlord did not, at any material time, issue to the tenants a notice to end the tenancy under Section 49 of the *Act*. As a result, I find the tenants are not entitled to any compensation pursuant to Section 51.

However, this does not preclude the parties from entering into a mutual agreement to end the tenancy earlier than the fixed term that might include some form of compensation.

When one party to a dispute provides testimony regarding circumstances related to a tenancy and the other party provides an equally plausible account of those circumstances, the party making the claim has the burden of providing additional evidence to support their position.

In this case, the landlords dispute ever making an agreement for compensation to the tenants. As such, it is incumbent on the tenant to provide additional evidence to support their position. I find an email stating that the landlord wanted to discuss ending the tenancy early is not evidence that the parties had reached any agreement to ending the tenancy earlier than the fixed term. In addition, I find the tenants have provide no documentary or other evidence to confirm an agreement was made with the landlord in regard to compensation.

Conclusion

Based on the above, I dismiss the tenants' Application for Dispute Resolution in its entirety.

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: February 1, 2017

Residential Tenancy Branch