



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

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

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- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

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. Both parties acknowledge receipt of the others documentary evidence. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of two months' rent as claimed?
Is the tenant entitled to an order requiring the landlord to comply with the Act, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony. The tenancy began on June 15, 2015 on a month to month basis. The monthly rent was \$750.00. On April 29, 2016 the landlord served the tenant with a two month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenants to move out of the rental unit by July 1, 2016. The ground for the Notice was that the rental unit would be occupied by the landlord or the landlord's close family member. PP testified that during the last

week of June he found his unit advertised on craigslist for more rent. PP testified that he moved out of the rental unit on July 3, 2016 as he was unable to get into his new place until then. PP testified that the landlord told them that would be fine as his parents were not moving in until July 4, 2016. The tenant testified that the landlord had the postings up until mid-July. PP testified that the two day delay in moving out did not cause anyone hardship and that the landlords parents could have moved their items into the empty unit next to his if necessary.

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The landlord gave the following testimony:

RNL testified her in-laws were to move in on July 1, 2016 but because of the tenant's over holding they were forced to sign a new fixed term agreement with their landlord as they were being pressured to move out. RNL testified that they were able to renegotiate the terms of that contract and have it reduced from 6 months down to 3 months. RNL testified that her in-laws moved into her portion of the home on October 28, 2016 as they are renovating the subject unit to meet her in-laws needs. RNL testified that the unit next to this one was occupied and not vacant as the tenant claims and only started advertising on July 3, 2016 after the tenants moved out. RNL testified that as a result of the tenants actions, she and her husband were forced to rent the unit.

Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (2) In addition to the amount payable under subsection (1), if
 - (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or
 - (b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

The applicant seeks payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the property was not used for the stated purpose for ending the tenancy. In RN's own

testimony she acknowledges and concedes that her in-laws have not occupied the unit at any time, even after they ended their tenancy with their previous landlord. The tenant has been successful in his application.

The Act provides that compensation is payable, **regardless of intention if the rental unit is not used for the stated purpose for at least 6 months, beginning within a reasonable period after the effective date of the Notice.** The landlords confirmed that as of this date, RL's parents have still not moved into the unit. Based on the above and on a balance of probabilities; I am satisfied that the tenants are entitled to two months compensation as outlined above. The tenants are entitled to \$750.00 x 2 months = \$1500.00.

Conclusion

The tenant has established a claim for \$1500.00. I grant the tenant an order under section 67 for the balance due of \$1500.00. 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: February 20, 2017

Residential Tenancy Branch