



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O

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.

The landlord was represented by her son (JP) who stated that his mother was ill with high blood pressure and was unable to attend. He requested that the hearing be adjourned so that his mother could participate. I explained to JP that I would attempt to conduct the hearing and if necessary would adjourn.

During the hearing it became apparent that JP was involved with the tenants during the tenancy and sometimes helped his mother with the language. I decided that an adjournment was not necessary and the hearing continued with JP representing the landlord.

The tenant stated that he had sent an evidence package to the landlord on March 02, 2017 by registered mail at the address where the landlord resides. JP denied having received this package and the tenant was unable to provide a tracking number. Accordingly this evidence was not used in the making of this decision.

Issues to be Decided

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

Background and Evidence

Both parties agreed to the following:

The tenancy started in July, 2011. The monthly rent was \$1,600.00. In August 2015, the property changed hands and the new landlord entered into a one year fixed term tenancy agreement dated August 01, 2015.

The monthly rent was bumped up to \$1,900.00. The tenancy agreement stated that at the end of the fixed term, the tenancy would continue on a month to month basis.

The parties agreed that on May 14, 2016, the landlord served the tenant with a notice to end tenancy for landlord's use of property. The effective date of the notice was July 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 July 31, 2016.

The tenant stated that about one month later, he stopped by the rental unit to pick up mail. The tenant stated that the rental unit was occupied by two young males who informed the tenant that they were renting the unit at a monthly rent of \$2,500.00. The tenant contacted the landlord who confirmed that the males were JP's friends but informed the tenant that they did not pay rent.

During the hearing, JP stated that the landlord had moved into the rental unit for the month of August 2016. He agreed that his friends moved into the unit in September 2016.

The tenant seeks an amount equal to double the monthly rent as compensation from the landlord for not complying with the reason for the two month notice to end tenancy for landlord's use of property.

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, I find that the landlord did not intend to occupy the rental unit for at least six months. The actions of the landlord indicate that she intended to re rent the unit at a higher rent.

Even if I accept JP's testimony that the landlord lived in the rental unit for the month of August 2016, since the unit was not used for the stated purpose for a period of at least six months, I find that the landlord must pay the tenant \$3,800.00 which is the equivalent of double the monthly rent. The tenant has proven his case and is entitled to the filing fee of \$100.00.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of \$3,900.00.00. 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 **\$3,900.00**.

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: April 04, 2017

Residential Tenancy Branch