



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 for Dispute Resolution by the tenants for a monetary order for compensation pursuant to section 49 and 51 of the Act and to recover the filing fee from the landlord.

The tenants attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenants testified the Application for Dispute Resolution and Notice of Hearing were serviced in person to the landlord at their place of business on October 20, 2016. I find that the landlord has been duly served in accordance with the Act.

Issue to be Decided

Are the tenants entitled to a monetary order pursuant to section 49 and 51 of the Act?

Background and Evidence

The tenancy began on March 1, 2015. Current rent in the amount of \$1,420.00 was payable on the first of each month. The tenancy ended on October 1, 2016.

The tenants testified that they received a 2 Month Notice to End Tenancy for Landlord's Use of Property, issued on June 30, 2016, with an effective vacancy date of September 1, 2016. Filed in evidence is a copy of the notice.

The tenants testified they did not move-out on September 1, 2016, as there was agreement to extend the effective vacancy date to October 1, 2016, as the landlords had not sold their other home, as they had expected.

The tenants testified that they paid all their rent during the tenancy and the landlord did not provide them with compensation under the Act equal to one month's rent. The tenants seek compensation in the amount of \$1,420.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenants have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

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.

I accept the undisputed testimony of the tenants that they received a notice to end tenancy pursuant to section 49 of the Act. as a copy of the notice was filed as evidence and I find the notice is in the proper form.

I accept the undisputed testimony of the tenants that they did not receive an amount that is equivalent of one month's rent from the landlord as required by the Act. I find the landlord breached the Act, when they failed to compensate the tenants. Therefore, I find the tenants are entitled to a monetary order in the amount of **\$1,420.00**.

I find that the tenants have established a total monetary claim of **\$1,520.00** comprised of the above described amount and the \$100.00 fee paid for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **landlord is cautioned** that costs of such enforcement are recoverable from the landlord..

Conclusion

The tenants' application for monetary compensation is granted.

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 19, 2017

Residential Tenancy Branch