



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 the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant; an agent for the landlord; and a former agent for the landlord.

At the outset of the hearing, the parties clarified that the respondent JY was the former agent of the landlord. JY submitted documentary evidence prior to the hearing showing that effective August 31, 2016 the contract between the landlord and the agent was terminated an effective September 1, 2016 she no longer represented the landlord.

As the tenant's claim was made on November 22, 2016 and is based on events that occurred after both the tenancy and the property management contract ended, I find that the respondent JY is wrongfully named as a respondent in this claim.

I amend the tenant's Application to exclude the respondent JY. After I made this determination the respondent JY left the hearing and did not participate any further.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation for the landlord not using the rental unit for the stated purpose when ending the tenancy for landlord's use and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 51, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began in February 2010 as a 1 year fixed term tenancy that converted to a month to month tenancy effective February 1, 2011 for a monthly rent of \$1,800.00 due on the 1st of each month with a security deposit of \$900.00 paid.

The tenants submitted a copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued by the landlord on June 21, 2016 with an effective vacancy date of August 31, 2016 citing the rental unit will be occupied by the landlord or the landlord's close family member.

The tenant submitted that since moving out of the rental unit they have found out that the landlord or a close family member has not moved in and on November 11, 2016 they found the rental unit advertised on Craigslist for rent at a rental rate of \$2,200.00 or \$400.00 per month higher than this tenancy.

The landlord's agent did not dispute that the property has been re-rented.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if 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 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.

Section 51(2) states that in addition, if steps have not been taken to accomplish the stated purpose for ending the tenancy under Section 49 within a reasonable time after the effective date or 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 must pay the tenant an amount that is the equivalent of double the amount of rent payable under the tenancy agreement.

I am satisfied that the tenancy ended as a result of the landlord issuing a 2 Month Notice to End Tenancy for Landlord's Use of Property so that the landlord or a close family member intended to move into the rental unit.

I am also satisfied from the tenant's undisputed submissions that the landlord did not use it for the stated purpose. In fact, I find that there is no evidence before me that the landlord ever intended to use the rental unit for that purpose and that the sole intention of the landlord was to rent the unit at a higher rental rate.

As such, I find the tenant has established entitlement to compensation, pursuant to Section 51(2).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$3,700.00** comprised of \$3,600.00 double the amount of rent owed and the \$100.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: June 08, 2017

Residential Tenancy Branch