



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to compensation?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The following are undisputed facts: The tenancy started in October 2013 and ended on September 30, 2016. Rent of \$1,695.00 was payable monthly. In August 2016 the Landlord gave the Tenant a two month notice to end tenancy for landlord's use (the “Notice”). The reason for the Notice was that the Landlord's son was going to live in the unit. The effective date of the Notice was October 31, 2016. The Landlord's son moved into the unit on October 1, 2016. On November 23, 2016 the unit was advertised for rent to be available as early as January 15, 2017 for rent of \$2,195.00 per month. The son moved out of the unit on January 7, 2017. The unit remained empty until the tenancy that started on March 15, 2017.

The Tenant states that he misread the Act and in error only claimed one month compensation but that he intended to claim the full amount provided for under the Act. The Tenant also claims compensation for the Tenant's time in making this application.

Analysis

Section 51 of the Act provides that where a tenant who receives a notice to end a tenancy for landlord's use of property and where 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 landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement. Based on the undisputed evidence that no family member lived in the unit for at least 6 months after the effective date of October 31, 2017, I find that the Tenant is entitled to double the rent paid in the amount of **\$3,390.00**.

As nothing in the Act provides for a party to be compensated for starting and participating in the dispute proceedings other than the recovery of the filing fee, I find that the Tenant is not entitled to the compensation claimed for its time in making the application and I dismiss that claim.

As the Tenant's application has been primarily successful I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$3,490.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$3,490.00**. If necessary, 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: June 20, 2017

Residential Tenancy Branch