



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC

Introduction

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

- a Monetary Order pursuant to section 67 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Both the landlord and the tenant appeared at the review hearing. Only tenant K.E.G. attended the hearing for the tenants. K.E.G. confirmed that she had authority to speak on behalf of her roommate, and will herein be referred to as the “tenant.” Both parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord acknowledged receiving the tenants’ application for dispute resolution and evidentiary package by way of Canada Post Registered Mail. A copy of the Canada Post Registered Mail receipt was provided to the hearing. Pursuant to sections 88 & 89 of the *Act* the landlord is found to have been duly served with the documents and the tenant’s application.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation or loss under the *Act*?

Can the tenants recover the filing fee?

Background and Evidence

The tenant testified that this tenancy began in December 2011 and ended on June 15, 2017. Rent was \$800.00 per month and no security deposit was collected at the outset of the tenancy. The tenant stated that the landlord served her and her roommate with a 2 Month Notice to End Tenancy on December 11, 2016 because it was explained to her that family members would be moving in to the suite. The tenant explained that she and her roommate vacated the suite on January 15, 2017. On April, 2017 the tenants discovered an online advertisement listing their suite for \$1,000.00.

The landlord did not deny that the suite listed online was the unit formerly occupied by the tenants. The landlord provided testimony that her parents-in-law had in fact been living in the suite since January 2017 when the tenants vacated the premises, but they were forced to move to Richmond because of that city's proximity to easily accessible medical services. The landlord explained that circumstances had changed, and her parents-in-law had discovered that it was too difficult to commute to Richmond from the rental unit, as they did not drive and were forced to rely on public transport.

The tenants questioned the good-faith requirement of the two month notice to end tenancy served on them and sought compensation under 51(2)(b) of the *Act*.

Analysis

The tenants have applied for a monetary award of \$1,600.00. They are seeking this amount in satisfaction for vacating a rental unit after having been issued a 2 Month Notice to End Tenancy based on the landlord's use of property.

Section 51(2)(b) of the *Act* states, "If 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 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, 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."

I am satisfied based on the evidence before me and the testimony provided by the tenant that the landlord did not use the rental unit for the purpose stated in the 2 Month Notice to End Tenancy. The tenant submitted undisputed written evidence in the form of an online advertisement showing her exact rental unit for rent five months following the

date she vacated the unit. While the landlord explained that the rental unit had in fact been used for the purpose stated on the 2 Month Notice issued to the tenants, this was done so for only a short period of time. I appreciate that circumstances beyond the control of the landlord caused her parents-in-law to move out of the rental unit so they could be closer to their medical services; however, section 51 of the *Act* is very clear in the time line that must be adhered to by a landlord when a tenant is served a 2 Month Notice for landlord's use of property.

As the tenants were successful in their application, they may recover the \$100.00 filing fee associated with the application.

Conclusion

I issue a Monetary Order in the tenants favour in the amount of \$1,700.00 against the landlord. The tenants are provided with a Monetary Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Item	<u>Amount</u>
Penalty for 2 month notice (2 x \$800.00)	1,600.00
Recovery of Filing Fee	100.00
Total =	\$1,700.00

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: July 17, 2017

Residential Tenancy Branch