



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with a tenant's application for a Monetary Order for compensation for damage or loss under the Act, regulations or tenancy agreement. The landlord did not appear at the hearing. The tenants testified that they sent the hearing documents to the landlord by registered mail within three days of filing and the registered mail was successfully delivered. The tenants had a registered mail receipt as proof of service. I accept that the landlord was duly notified of this proceeding and I continue to consider the tenant's request for compensation.

Issue(s) to be Decided

Have the tenants established an entitlement to compensation equivalent to one month of rent?

Background and Evidence

The tenancy started in September 2014 and the tenants were required to pay rent of \$950.00 on the first day of every month.

In November 2016 the landlord sent a text message to the tenant to advise the tenants she would be renovating and selling the property in March of the following year and that they should prepare to find a new home. The tenants responded thanking the landlord for the notice.

The tenants paid rent for January 2017 and on January 16, 2017 notified the landlord via text message that they had found a new home effective February 1, 2017 and would be moving out then. The landlord's response was that she would be at the property on February 18, 2017 and return the security deposit when she arrived. The tenants

proceeded to vacate the rental unit on January 31, 2017. The tenants received a refund of their security deposit minus an amount for authorized deductions.

The tenants subsequently learned that if a landlord ends the tenancy for landlord's use of property, such as renovation or sale of the property, the tenants are entitled to compensation equivalent to one month's rent. The tenants provided this information to the landlord in hopes the landlord would pay them the compensation; however, the landlord did not agree that she owed them and considered the tenant's communications to be an attempt to harass and extort money from her. The tenants explained that they are merely trying to obtain the compensation payable to tenants who are evicted for landlord's use of property as provided under the Residential Tenancy Act.

The tenants also stated that they saw an advertisement for the rental unit shortly after their tenancy ended but that the advertisement was taken off the internet before they had a chance to print it. The tenants pointed out that the landlord gave them the notice to end tenancy after the landlord incurred fines from the city related to incorrect use of garbage bins and increased utility bills for having an illegal suite and the tenants had rejected the landlord's request that the tenants pay a portion of the fines.

By way of this application, the tenants seek compensation in an amount equivalent to one month of rent since their tenancy ended for landlord's use of property.

As documentary evidence, the tenants provided screen shots of the text messages referred to by the tenants above.

Analysis

Where a landlord seeks to end a tenancy in order to significantly repair or renovate the rental unit, or if the property is the subject of an unconditional sales agreement, the landlord may end the tenancy by serving the tenant with a *2 Month Notice to End Tenancy for Landlord's Use of Property* under section 49 of the Act.

A tenant who receives a 2 Month Notice under section 49 of the Act is entitled to compensation equivalent to one month of rent, as provided under section 51 of the Act.

Section 5 of the Act also provides that parties may not avoid the Act and any attempt to avoid the Act is of no effect.

Based on the unopposed submissions and evidence before me, I accept the tenants' argument that the tenancy came to an end due to the landlord's use of property as reasonable in the circumstances. The landlord gave the tenants a message that she intended to renovate and sell the unit and that they would have to move out as a result. The tenant's accepted the landlord's text message as though it was a notice to end tenancy and proceeded to find a new home and move out of the rental unit.

Accordingly, I find the landlord obtained the benefit of ending the tenancy and use of the rental unit for the landlord's own use without paying the tenant's compensation that they would have received had the landlord ended the tenancy by using the required form. Since parties cannot avoid their obligations under the Act, I grant the tenant's request for compensation equivalent to one month of rent, or \$950.00.

The tenants are provided a Monetary Order for \$950.00 in compensation plus \$100.00 for recovery of the filing fee to serve and enforce upon the landlord.

Conclusion

The tenants are provided a Monetary Order in the sum of \$1,050.0 to serve and enforce upon the landlord.

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: August 25, 2017

Residential Tenancy Branch