



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EASY RENT REAL ESTATE SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC RR FF

Introduction:

Both parties attended the hearing and gave sworn or affirmed testimony. The tenant provided evidence that they served their Application for Dispute Resolution by mail to the office of the landlord and the landlord acknowledged receipt. I find the documents were sufficiently served pursuant to section 71 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- (a) Compensation pursuant to sections 49, 50 and 51 for a rent refund as the landlord required the tenant to vacate the property illegally pursuant to a fixed term lease and did not provide a free month's rent contrary to section 51; and
- (b) recovery of the filing fee for this application.

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Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that they are entitled to a refund of one month's rent? Are they entitled to recover filing fees for the application?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced November 5, 2016 on a fixed term lease to November 5, 2017, that rent was \$2300 a month and a security deposit of \$1150 was paid.

The tenant said he got a written notice in a letter that the unit was sold and the new owner wanted to move in. He said he had wanted a long term lease and the landlord had told him that the fixed term was just a formality and if he was a good tenant, he would be able to stay. In addition, he noted he had written in the addendum that if he had to move, he would get 2 months notice. He provided some emails and a copy of the lease to support his statements.

However, he said he moved out of his home but would like compensation of one month rent refund as provided in sections 50 and 51 of the Act. The landlord said that at the time of ending this tenancy, the new regulations and policy guideline regarding fixed term tenancies being renewed as month to month tenancies were not in force so were not applied to this situation. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

The ***Residential Tenancy Act*** provides in section 51(1) that a tenant who receives a Notice to End Tenancy under section 49 for landlord's use of the property is entitled to receive the equivalent of one month's rent. I find the tenant never received a Notice under section 49 of the Act. He only received a letter informing him of the expiry of his fixed term lease and the landlord's sale of the property. Section 52 (e) of the Act requires that any notice given by the landlord must be in the approved form.

Since the tenant never received a Notice under section 49 of the Act, I find he is not entitled to compensation pursuant to section 51(1) which is triggered by a Notice under section 49. I dismiss the application of the tenant.

Conclusion:

I dismiss the application of the tenant in its entirety without leave to reapply and I find he is not entitled to recover filing fees for his application due to lack of success.

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: January 17, 2018

Residential Tenancy Branch