



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL FF MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice") pursuant to section 49 of the *Act*;
- a monetary award for loss under the *Act* pursuant to section 67; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the tenant attended the hearing. The tenant was given a full opportunity to be heard, to present testimony and to make submissions.

At the outset of the hearing, the tenant noted that she had vacated the rental unit and was no longer disputing the landlord's 2 Month Notice. This portion of the tenant's application is therefore withdrawn.

The tenant explained that she served the landlord with her application for dispute resolution in person on or around September 6, 2017. Pursuant to section 89 & 90 of the *Act*, the landlord is found to have been duly served under the *Act* with the tenant's application for dispute resolution.

Issue(s) to be Decided

Is the tenant entitled to a monetary award?

Can the tenant recover the filing fee?

Background and Evidence

The tenant provided undisputed testimony that this tenancy began in January 2017 and ended on July 1, 2017. Rent was \$1,400.00 per month, and a security deposit of \$700.00 paid at the outset of the tenancy was returned to the tenant following the conclusion of the tenancy.

The tenant said that in the last week of April 2017 the landlord told her in person that he and his family would be taking over the rental unit. She said that no formal notice to end tenancy was ever issued to her. The tenant explained she was seeking a monetary award of \$1,400.00 because the landlord had failed to provide her with a final month's compensation as she understood that she was entitled to under the *Act*.

Analysis

Section 51 of the *Act* states, "A tenant who receive a notice to end tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice and amount that is equivalent to one month's rent payable under the tenancy agreement."

I do not find any evidence that the tenant ever received a notice to end tenancy from the landlord for landlord's use of property under section 49. The tenant said that the landlord attended her rental unit and informed her in person that he required use of the rental unit for his family. She said that she moved from the rental unit following this discussion.

Section 49(7) of the *Act* states, "A notice under this section must comply with section 52 of the *Act*." Section 52 says that in order for a notice to end tenancy to be effective it *must be in writing* and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy and *be in the approved form*.

I do not find that the tenant was under any obligation to move from the rental unit as she did not ever receive a valid notice to end tenancy. The tenant moved out of the rental unit under her own discretion and is therefore not eligible for compensation under section 51 of the *Act* because no notice to end tenancy was ever served to her.

As the tenant was unsuccessful in her application, she must bear the cost of her own filing fee.

Conclusion

The tenant's application disputing the landlord's 2 month notice to end tenancy was withdrawn at the outset of the hearing.

The tenant's application for a monetary award is dismissed.

The tenant must bear the cost of her own filing fee.

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 11, 2018

Residential Tenancy Branch