



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, OLC, FF*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for a monetary order for compensation and the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues(s) to be Decided

Is the tenant entitled to compensation pursuant to a s.49 notice to end tenancy? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started in July 2016. The monthly rent was \$1,200.00. On May 06, 2017, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The notice was served in the two page standard approved format. The landlord agreed that he had served this notice to the tenant and stated that he had found a buyer for the property and all the conditions of sale were satisfied. The landlord discussed this with the tenant and the tenant accepted the notice and moved out on July 01, 2017.

The landlord agreed that the tenant had paid rent for the last month of tenancy and stated that the tenant agreed to move out and did not ask a rent free stay for the last month of tenancy.

After the tenant moved out she learnt that she was entitled to a rent free stay for the last month of tenancy. On August 02, 2017, the tenant filed this application.

Analysis

Section 49 of the *Residential Tenancy Act* deals with a landlord's notice to end tenancy for landlord's use of property. Section 49 (5) states:

- 5) A landlord may end a tenancy in respect of a rental unit if
- (a) the landlord enters into an agreement in good faith to sell the rental unit,
 - (b) all the conditions on which the sale depends have been satisfied, and
 - (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:
 - (i) the purchaser is an individual and the purchaser, or a close family member, intends in good faith to occupy the rental unit;
 - (ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

Section 49(7) of the *Residential Tenancy Act* states that a notice under this section (49) must comply with section 52 [*form and content of notice to end tenancy*].

Section 52 of the *Residential Tenancy Act* states:

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
 - (b) give the address of the rental unit,
 - (c) state the effective date of the notice,
 - (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
 - (e) when given by a landlord, be in the approved form.

Pursuant to section 51 (1) of the *Residential Tenancy Act*, a tenant who receives a notice 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 an amount that is the equivalent of one month's rent payable under the tenancy agreement.

In this case, based on the oral testimony of both parties, I find that the tenant received a valid notice to end tenancy for landlord's use of property that complied with Section 52 of the *Residential Tenancy Act*.

I find that the tenant received a section 49 notice and accordingly is entitled to compensation pursuant to section 51, in the amount of one month's rent of \$1,200.00.

Since the tenant has proven her case, she is also entitled to the recovery of the filing fee of \$100.00. Overall the tenant has established a claim of \$1,300.00. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order for \$1,300.00.

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: January 31, 2018

Residential Tenancy Branch