



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

On October 4, 2017, the Tenant filed for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation, or tenancy agreement, and to recover the cost of the filing fee.

The Tenant appeared at the hearing; however, the Landlord did not. The Tenant provided affirmed testimony that the Landlord was served with the Notice of Hearing by registered mail on October 13, 2017. The provided the registered mail receipt number as proof of service. The Tenant testified that she sent the registered mail to the Landlord's address. In accordance with sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received the Notice of Hearing on October 18, 2017.

The hearing process was explained and the Tenant was asked if she had any questions. The Tenant provided affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Tenant entitled to other compensation under the *Act* or tenancy agreement?
- Is the Tenant entitled to recover the cost of the filing fee?

Background and Evidence

The Tenant testified that the tenancy began on October 15, 2010. Rent in the amount of \$500.00 was due by the first day of each month. The Tenant paid the Landlord a security deposit of \$250.00.

The Tenant testified that the Landlord issued her a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated July 31, 2017, ("the 2 Month Notice"). The Tenant testified that the reason for ending the tenancy within the 2 Month Notice is that the rental unit will be occupied by the Landlord or a close family member. The Tenant testified that the Landlord told her that he intended to use the unit for his son. The Tenant provided page 1 of the 2 Month Notice.

The Tenant accepted the 2 Month Notice and she testified that she moved out of the rental unit on August 30, 2017.

The Tenant testified that she never received compensation from the Landlord in the amount of one month's rent.

The Tenant is also seeking compensation in the amount of \$1,000.00 because the Landlord rented the unit out to new Tenants at a higher rent within 6 months of ending the tenancy. The Tenant testified that the Landlord advertised the unit for rent within a couple of weeks after she moved out.

The Tenant provided a copy of an advertisement from a local website showing that the unit was for advertised for rent for \$850.00 per month.

The Tenant testified that new Tenants moved into the unit on September 30, 2017. The Tenant provided a copy of text message she received from a neighbour of the rental unit advising her that new Tenants had moved into the unit.

Analysis

Section 51 (1) of the Act states that a Tenant who receives a notice to end a 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 an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Section 51 (2) of the Act states:

*in addition to the amount payable under subsection (1), if,
(a) 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
(b) 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, or the purchaser, 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.*

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

I find that the Tenant received a 2 Month Notice To End Tenancy For Landlord's Use Of Property from the Landlord and is entitled to one month's rent payable under the tenancy agreement. I find that the Landlord owes the Tenant the equivalent of one month's rent payable under the tenancy agreement. I award the Tenant the amount of \$500.00.

I find the Landlord failed to use the rental property for the reason stated within the 2 Month Notice. The Landlord re-rented the unit to a new Tenant at a higher rent. Pursuant to section 51(2) of the Act, the Landlord must pay the Tenant the equivalent of double the monthly rent payable under the tenancy agreement.

I award the Tenant the amount of \$1,000.00.

Filing fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I grant the Tenant a monetary order in the amount of \$1,600.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlord failed to compensate the Tenant after issuing a 2 Month Notice and did not use the rental unit for the stated purpose within the Notice. The Landlord must pay the Tenant the amount of three months' rent payable under the tenancy agreement.

The Tenant is granted a monetary order in the amount of \$1,600.00.

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: May 07, 2018

Residential Tenancy Branch