



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with an application by the tenant for a Monetary Order under Section 51(2) of the Residential Tenancy Act (the "Act") in an amount equivalent to double the monthly rent payable under the tenancy agreement as well as reimbursement of the filing fee under Section 72.

The hearing was conducted via teleconference and was attended by both the landlord and the tenant.

The tenant filed an application for monetary loss and evidentiary materials on November 30, 2018 which were subsequently served upon the landlord. The landlord filed evidentiary materials which were subsequently served upon the tenants.

The tenant and the landlord provided affirmed evidence at the hearing and were both given opportunity to give testimony, submit documents and call witnesses.

At the outset, I considered the landlord's written submissions that she may not be able to attend this hearing. I clarified whether she was requesting an adjournment of the hearing for medical reasons. The landlord confirmed she did not need to request an adjournment and accordingly the hearing proceeded.

Issue(s) to be Decided

1. Is the tenant entitled to a Monetary Order under Section 51(2)?
2. Is the tenant entitled to reimbursement of the filing fee under Section 72?

Background and Evidence

The parties agree as follows. On July 15, 2018, the landlord purchased the home in which the tenant had been renting the basement suite since December 15, 2011 in a month-to-month tenancy. The tenant paid the landlord rent of \$829.60 payable on the first of each month.

The parties agree the landlord personally served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property ("Two Month Notice") on November 30, 2017. The landlord provided the tenant with an amount equivalent to one month's rent as required by Section 51. The tenant vacated the premises on January 29, 2018 and the security deposit was returned to the tenant.

The tenant testified after she vacated the premises she learned from neighbours the premises were being rented or used by non-family members for several months.

The landlord testified the unit was occupied by her and her family following the termination of the tenant's tenancy for a four-month period during which she received no rent. The landlord stated that during this time, the landlord and her husband considered the cost of renovating the suite to build a family room. However, their investigations showed the proposed plan was too expensive for the family. The landlord began renting the unit again on June 1, 2018.

Analysis

Section 49 of the *Act* states in part as follows:

49 (2) *Subject to section 51 [tenant's compensation: section 49 notice], a landlord may end a tenancy for a purpose referred to in subsection (3), (4), (5) or (6) by giving notice to end the tenancy effective on a date that must be*
(a) not earlier than 2 months after the date the tenant receives the notice...

Section 51 of the *Act* states as follows:

51 (1) *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.*

(2) 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.** [emphasis added]*

As the landlord testified the unit was not used for the stated purpose for at least 6 months after the tenant vacated the suite at the end of January 2018, I find the landlord must pay the tenant an amount equivalent to double the monthly rent payable under the tenancy agreement, being \$1,659.20.

As the tenant has been successful in her application, I find she is entitled to reimbursement of the filing fee in the amount of \$100.00.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 51(2) and Section 72 and I grant a Monetary Order in the amount of \$1,759.20 being equivalent of double the monthly rent payable under the tenancy agreement and reimbursement of the filing fee.

This Order must be served on the landlord. If the landlord fails to comply with this Order, the tenant may file the Order in the Provincial Court (Small Claims) to be enforced as an Order of that Court.

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: June 04, 2018

Residential Tenancy Branch