



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of the security deposit, pursuant to section 38;
- authorization to recover the filing fee for this application, pursuant to section 72.

"Tenant DL" and the landlord did not attend this hearing, which lasted approximately 13 minutes. Tenant BM ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that she had permission to speak on tenant DL's behalf at this hearing (collectively "tenants").

The tenant testified that she personally served the landlord with the tenants' application for dispute resolution hearing package on April 21, 2018. In accordance with section 89 of the *Act*, I find that the landlord was personally served with the tenants' application on April 21, 2018.

The tenant confirmed receipt of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property, dated January 9, 2018 ("2 Month Notice"). The tenants provided a copy of the 2 Month Notice. The effective move-out date on the notice is March 31, 2018. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlord's 2 Month Notice.

At the outset of the hearing, the tenant claimed that the landlord had returned the tenants' security deposit of \$490.00 and the tenants were no longer pursuing this claim.

Accordingly, this portion of the tenants' application is dismissed without leave to reapply.

Issues to be Decided

Are the tenants entitled to a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Are the tenants entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the documentary evidence and testimony of the tenant, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenants' claims and my findings are set out below.

The tenant testified that this tenancy began on April 1, 2016 and ended on March 31, 2018. Monthly rent in the amount of \$1,000.00 was payable in the first year of tenancy and \$950.00 was payable in the second year of tenancy. A written tenancy agreement was signed by both parties.

The tenants seek compensation under section 51(1) of the *Act*, stating that they are entitled to one month's free rent compensation of \$950.00, pursuant to the landlord's 2 Month Notice. The tenants also seek to recover the \$100.00 filing fee paid for his application.

The tenant stated that the tenants moved out of the rental unit due to the 2 Month Notice, which required them to vacate by March 31, 2018. She said that the tenants made a cash rent payment of \$950.00 to the landlord for the last month of tenancy in March 2018 but the landlord refused to provide a rent receipt to the tenants to confirm payment. She claimed that the tenants did not receive the one month free rent of \$950.00 for March 2018 pursuant to the 2 Month Notice.

Analysis

The tenant provided undisputed evidence as the landlord did not attend this hearing. Section 51 of the *Act* entitles the tenants to compensation of one month's free rent pursuant to a 2 Month Notice. It states in part:

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.

I find that the tenants received a 2 Month Notice from the landlord and ended their tenancy pursuant to this notice on the effective date of March 31, 2018. The landlord did not provide the tenants with one month's rent compensation pursuant to the 2 Month Notice. The tenants paid rent for March 2018 to the landlord which was not refunded to them. Accordingly, I find that the tenants are entitled to one month's rent compensation of \$950.00 for March 2018, as per section 51 of the *Act* and the 2 Month Notice.

As the tenants were mainly successful in this application, I find that they are entitled to recover the \$100.00 filing fee from the landlord.

Conclusion

I issue a monetary Order in the tenants' favour in the amount of \$1,050.00 against the landlord. The tenants are provided with a monetary order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The remainder of the tenants' application is dismissed without leave to reapply.

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: October 25, 2018

Residential Tenancy Branch