



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "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.

The tenant and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing, the landlord confirmed that she had received the tenant's hearing package including evidence. The landlord testified that she did not provide any documentary evidence for this hearing. As the landlord did not raise any issues regarding service of the application or the evidence, I find that the landlord was duly served with these documents in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

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

Background and Evidence

As per the testimony of the parties, the tenancy began on September 1, 2015 on a month-to-month basis. Rent in the amount of \$1,750.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$875.00 at the start of the tenancy, which was later returned to the tenant at the end of the tenancy.

On July 1, 2017, the landlord issued a 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice") with an effective date of September 1, 2017. The grounds to end the tenancy cited in that 2 Month Notice were;

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

The tenant testified that he complied with the 2 Month Notice and vacated the rental unit on September 1, 2017. The tenant testified that in February of 2018 a new occupant of the rental unit contacted him through social media. The occupant confirmed he was renting the unit along with four others. It is the tenant's position that the landlord did not issue the 2 Month Notice in good faith, and therefore seeks compensation equivalent to double the monthly rent. In an effort to support his position the tenant has provided a copy of the 2 Month Notice and a copy of the text messages between him and the new occupant.

The landlord testified that she issued the 2 Month Notice with the intention to occupy the unit, however after beginning some renovation work she ran into some issues with the city sewer. She testified that the unit remained empty for some time, but in January of 2018 she re-rented the unit in an effort to mitigate her monetary loss.

Analysis

Under section 49 of the *Act*, a landlord may end a tenancy if the rental unit will be occupied by the landlord or the landlord's close family member intends in good faith to occupy the rental unit.

Since the issuance of the 2 Month Notice, changes to the *Act* affecting compensation have come into effect. However at the time this 2 Month Notice was issued, section 51(2)(b) of the *Act* established that if steps had not been taken to accomplish the stated purpose for ending the tenancy under section 49 of the *Act* within a reasonable period after the effective date of the notice or the rental unit was not used for the stated purpose for at least six months beginning within a reasonable period after the effective date of the notice the landlord must pay the tenant double the monthly rent.

Because the landlord issued a 2 Month Notice for family use with an effective date of September 1, 2017 the landlord became obligated to move into the unit or allow a close family member to move into the unit by February 28, 2018. Based on the landlord's

own admission that this has not occurred, I find the tenant is entitled to compensation in the amount of \$3,500.00.

Conclusion

I issue a monetary order in the tenant's favour in the amount of **\$3,500.00** against the landlord.

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: September 24, 2018

Residential Tenancy Branch