



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL FFT MNDCT OLC RR

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (“the Act”) for an order as follows:

- to cancel a 2 Month Notice to End Tenancy given for landlord’s use of property (“2 Month Notice”) pursuant to section 49 *Act*;
- for an order directing the landlord to comply with the *Act* pursuant to section 62;
- for a monetary award pursuant to section 67 of the *Act*;
- to reduce rent for repairs agreed upon but not provided pursuant to section 33; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the tenant attended the hearing by way of conference call. The tenant said she served the landlord with her application for dispute and evidentiary package after they were handed to the landlord on August 15, 2018. Pursuant to sections 88, 89 & 90 of the *Act*, the landlord is deemed served with the tenant’s application for dispute and evidentiary package on the same day of service, August 15, 2018.

Following opening remarks, the tenant acknowledged moving out of the rental unit on August 19, 2018. The tenant stated that she wished to proceed with the portion of her application only related to the monetary award.

Issue(s) to be Decided

Is the tenant entitled to a monetary award?

Background and Evidence

The tenant explained this tenancy began on February 1, 2018 and ended on August 19, 2018. Rent was \$1,000.00 per month and a security deposit of \$500.00 paid at the outset of the tenancy continues to be held by the landlord. The tenant said that in addition to a payment of \$1,000.00 per month, a separate payment of \$100.00 was made each month as a fee for a guest in the rental unit.

The tenant said she was seeking a monetary award of \$1,600.00 in reflection of a return of her security deposit along with compensation for August 2018 rent. The tenant said she was handed a 2 Month Notice to End Tenancy on August 2, 2018. This notice dated July 31, 2018 notified the tenant that the landlord sought to take possession of the unit because *the 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 described a hostile living situation in the rental unit that prevented her wanting to remain in the unit through to the end of the effective date of the 2 Month Notice.

Analysis

The tenant said she was seeking a monetary award of \$1,600.00 reflecting a return of her security deposit along with compensation for August 2018 rent.

A review of the tenant's application for dispute reveals that she has not submitted an application for a return of the security deposit. *Residential Tenancy Branch Rule of Procedure 2.2* states, "The claim is limited to what is stated in the application." As I have no application for a return of the security deposit from the tenant, I decline to rule on tenant's right to a return of her security deposit. The tenant may pursue a return of her security deposit in a future application.

The tenant argued she was due \$1,100.00 in compensation under section 51 of the *Act* (\$1,000.00 rent + \$100.00 "guest" fee). Section 51 states:

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.

The tenant said rent was paid in its entirety for August 2018; however, she vacated the property on the 19th of August due to an acrimonious relationship with the landlord. As no compensation was provided to the tenant pursuant to section 51 of the *Act*, I find based on the tenant's undisputed testimony, that the tenant is entitled to a monetary award equivalent to \$1,100.00 reflecting "the equivalent of one month's rent payable under the tenancy agreement."

As the tenant was successful in her application, she may recover the filing fee pursuant to section 72 of the *Act*.

Conclusion

I issue a Monetary Order of \$1,200.00 in favour of the tenant. This amount includes a return of the \$100.00 filing fee along with \$1,100.00 due to the tenant pursuant to section 51 of the *Act*.

The tenant is 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.

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 4, 2018

Residential Tenancy Branch