



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT MNDCT**

Introduction

This hearing dealt with an application by the tenants under the Residential Tenancy Act (the “Act”) for the following:

- a monetary order in an amount equivalent to one month’s rent payable under the tenancy agreement under section 51(2) and 67; and
- reimbursement of the filing fee under section 72.

The first-named tenant KS appeared on behalf of both tenants (“the tenants”). The landlord did not appear. I left the teleconference line open for an additional twenty minutes after the scheduled time to allow the landlord to participate in the hearing. I confirmed the correct participant codes were provided to the landlord. Only the tenants and I participated in the hearing.

The tenants did not provide evidence they served the landlord with the Notice of Hearing and Application for Dispute Resolution. However, the landlord submitted materials for the hearing including 28 pages of evidence. The submitted materials include a letter from the landlord dated July 9, 2018 and signed by her citing the file number which appears on the first page of this Decision. The second line of the letter states, “Regarding the dispute and arbitration order”. The body of the letter contains the landlord’s position with respect to the dispute. The letter is three pages and refers to many documents regarding the dispute which are attached to the letter.

Further to section 71(2)(b), I find the landlord was sufficiently served with the Notice of Hearing and Application for Dispute Resolution.

Issue(s) to be Decided

Is the tenant entitled to the following:

- a monetary order in an amount equivalent to one month’s rent payable under the tenancy agreement under section 51(2) and 67; and

- reimbursement of the filing fee under section 72.

Background and Evidence

The tenants provided uncontradicted affirmed testimony as the landlord did not attend the hearing.

The tenants testified they entered into a residential month-to-month tenancy agreement with the landlord for rent of \$740.00 a month payable on the first of the month. The tenants provided a security deposit to the landlord in the amount of \$350.00 at the beginning of the tenancy.

The tenants provided the following timeline regarding the end of the tenancy:

- On March 24, 2018, the landlord informed the tenants the unit would be listed for sale;
- On March 29, 2019, the landlord posted a 1-page hand-written letter to the tenants on their door, a copy of which the tenants submitted in evidence;
- The letter stated that the landlord was giving the tenants 2 months notice to vacate, stating:

I have to inform you that I will not be selling the house at this time. Also due to unforeseen circumstances I need to give you 2 months notice to vacate the premises situation at [address] effective immediately. You are to vacate said premises on May 31. A final inspection to take place June 1 at an agreed time. I enclose a list of what needs to be done for a final inspection.

- On March 30, 2018 the tenants provided the landlord with notice they were moving out of the unit on April 30, 2018;
- The tenants paid rent for the month of April 2018;
- The tenants vacated the unit on April 30, 2018, the parties conducted an inspection on moving out, and the landlord returned the tenants' security deposit.

The landlord did not issue a standard form to the tenants providing notice of the end of tenancy. The tenants testified the hand-written letter of March 29, 2018 was the only notice they received.

The tenants testified they subsequently learned that a landlord must provide compensation to tenants under section 51(1) in the amount of one month's rent when the landlord issues a section 49 notice giving tenants two months notice to vacate.

The tenants claim compensation under section 51(1) against the landlord and reimbursement of the filing fee.

Analysis

This application involves consideration of the applicable sections of the Act dealing with the termination of tenancy by the landlord.

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.*

Section 52 of the Act sets out the form and content of the notice to end tenancy for the landlord's use of the property and states as follows:

52 *In order to be effective, a notice to end a tenancy must be in writing and must*
(a) be signed and dated by the landlord or tenant giving the notice,
(b) give the address of the rental unit,
(c) state the effective date of the notice,
(d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy, and
(e) when given by a landlord, be in the approved form.

There are several grounds for the ending of a tenancy under section 49. For example, the landlord could intend to demolish the unit or convert it to non-residential use.

The notice in this case, being the letter from the landlord of March 29, 2018 does not comply with section 52(d) as it does not state the grounds for ending the tenancy.

Under section 68 of the *Act*, the director may amend the notice if satisfied the tenants knew or should have known the information that was omitted from the notice. In addition, section 68 requires that it must be reasonable in the circumstances to amend the notice.

The tenants testified they did not know why the landlord gave them two months' notice particularly as she specifically stated in the March 29, 2018 letter that she was not selling the unit.

I find the notice is deficient in that it does not contain the information required under the *Act*. Therefore, I cancel the notice of March 29, 2018 as it does not comply with section 52(d) of the *Act*.

As the notice is cancelled, the tenants are not entitled to one month's rent as compensation under section 51(1) of the *Act*.

I dismiss the tenant's application without leave to reapply.

I do not award the tenants reimbursement for the filing fee.

Conclusion

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: November 01, 2018

Residential Tenancy Branch