



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* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67.

"Landlord SS" did not attend this hearing, which lasted approximately 32 minutes. "Landlord NS," the landlords' agent ("landlord"), the tenant and the tenant's agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. Landlord NS confirmed that he had permission to represent landlord SS and that his agent had permission to represent both landlords at this hearing (collectively "landlords"). The tenant confirmed that her agent had permission to represent her at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing and the tenant confirmed receipt of the landlords' written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlords were duly served with the tenant's application and the tenant was duly served with the landlords' written evidence package.

Issue to be Decided

Is the tenant entitled to a monetary order for compensation under section 51(2) of the *Act*?

Background and Evidence

Both parties agreed to the following facts. This tenancy began on July 18, 2004 and ended on March 31, 2018. Monthly rent in the amount of \$800.00 was payable on the first day of each month. A security deposit of \$337.50 was paid by the tenant and the landlords continue to retain this deposit. A written tenancy agreement was signed by both parties.

The tenant seeks compensation under section 51(2) of the *Act* for double the monthly rent of \$800.00, totalling \$1,600.00. The tenant stated that she originally applied for four month's rent compensation of \$3,200.00 because she misunderstood the law, but she wanted to reduce her claim to double the monthly rent of \$1,600.00.

The tenant claimed that the landlords asked her to move from the rental unit by March 31, 2018, as per a letter that she received from them on November 9, 2017. A copy of the letter was provided for this hearing. The tenant stated that she moved because of the landlords' letter. She explained that she did not receive a Two Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice") from the landlords in the approved form, which is a specific Residential Tenancy Branch form. She said that because the landlords did not use the rental unit for the stated purpose on the letter, she is entitled to compensation. She claimed that the landlords told her that their daughter was moving in but she did not, someone else moved in after the landlord fixed the unit.

The landlords dispute the tenant's claim. The landlord testified that the landlords' daughter was intending to move into the rental unit but her work contract got extended overseas so she decided not to move back and the landlords could not force her to do so. She stated that the landlords had to re-rent the unit in order to minimize their losses, after they fixed the unit. She claimed that only a letter was provided to the tenant to move out, no 2 Month Notice was given because the landlords did not know the law.

Analysis

Sections 49, 51 (applicable law prior to changes made in May 2018) and 52 of the *Act*, state in part (my emphasis added):

- 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,*

...

(7) A notice under this section must comply with section 52 [form and content of notice to end tenancy].

- 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.*

- 52 **In order to be effective, a notice to end a tenancy must be in writing and must**
- (e) when given by a landlord, be in the approved form.**

Since the tenant did not receive a 2 Month Notice in the RTB approved form, as required by sections 49 and 52 of the *Act*, I find that the tenant is not entitled to any monetary compensation under section 51 of the *Act*. The tenant only received a letter from the landlord asking her to move and she chose to move out pursuant to the letter.

Accordingly, the tenant's application for \$1,600.00 for double the monthly rent compensation under section 51 of the *Act*, is dismissed without leave to reapply.

Conclusion

The tenant's 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: January 14, 2019

Residential Tenancy Branch