



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on March 14, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67; and,
- recovery of the filing fee.

The Tenant attended the hearing. The Tenant testified that he sent a copy of the Notice of Hearing along with supporting documentary evidence to the all 3 of the Landlords by registered mail on November 15, 2018. Two of the Landlords (Y.W. and Y.W.) named on the application (the purchasers of the house) confirmed that they received this package. These individuals provided some documentary evidence (uploaded to the dispute resolution website). However, they were not sure if they served the Tenant with it. The Tenant stated he did not get it. I am not satisfied Y.W. and Y.W. have sufficiently served the Tenant with their evidence, in accordance with the Rules of Procedure. As such, it will not be considered in this proceeding.

The other Landlord, M.L., who was the seller of the house, did not appear at the hearing. The Tenant stated that he sent M.L. his application and evidence by registered mail on November 15, 2018. I find M.L. was deemed served with this package on November 20, 2018, 5 days after it was mailed, pursuant to section 89 and 90 of the *Act*.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Tenant entitled to compensation for money owed or damage or loss under the Act?

Background and Evidence

The Tenant stated that monthly rent was \$1,200.00 per month. The Tenant stated that after a speaking with the Landlord sometime in February 2018, he was informed that the house he was living in was being sold. The Tenant stated that he did his best to be accommodating throughout the process. The Tenant stated that he was told a couple weeks later, in late February or early March 2018, that the new owners wanted vacant possession of the rental unit, at the time they took possession in June 2018. The Tenant stated that the new owners never moved in, and simply re-sold the unit.

The Tenant stated that he never received any written Notice to End Tenancy from the Landlord. The Tenant stated that he moved out at the end of May 2018, just prior to when the new owners (Y.W. and Y.W.) took possession.

The Tenant is looking for 12 months' rent in compensation, pursuant to section 51 of the Act, because the Landlord never moved in, as was initially explained to him.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. In this case, the Tenant is seeking 12 month's compensation, pursuant to section 51 of the Act, (12 x \$1,200.00) because the new owners did not utilize the unit as it was initially explained to him prior to moving out.

After reviewing this application, I find the Tenant is ineligible for the amount he is seeking. In making this determination, I considered and take note of the fact that the

Landlord did not issue a valid and proper 2-Month Notice to End Tenancy for Landlord's use of the property. It appears the Landlord initiated the tenancy ending, but this was only done informally and verbally. I turn to the following portion of the Act:

Landlord's notice: landlord's use of property

49 (3) A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

(7) A notice under this section must comply with section 52 [form and content of notice to end tenancy] and, in the case of a notice under subsection (5), must contain the name and address of the purchaser who asked the landlord to give the notice.

Next, I turn to the following portion of the Act:

Form and content of notice to end tenancy

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,
- (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

I have reviewed the evidence before me, and I find the Landlord never issued a valid 2-Month Notice to End Tenancy, and the Tenant was not legally required to vacate the rental unit, based on the informal communications he had with the Landlord. A valid 2-Month Notice must be issued in order for compensation under section 51 to be due. Given this, I find the Tenant is not entitled to any compensation under section 51 of the Act. I dismiss the Tenant's application, in full.

As the Tenant was unsuccessful with his application, I decline to grant him the recovery of the filing fee.

Conclusion

The Tenant's application is dismissed, in full, 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: March 15, 2019

Residential Tenancy Branch