



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, MNDCT

Introduction

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

:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence from each other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of twelve months' rent as claimed?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenant gave the following testimony. The month to month tenancy had a monthly rent payable of \$825.00 due on the first of each month. On August 28, 2018 the landlord served the tenant with a two month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenants to move out of the rental unit by October 31, 2018. The ground for the Notice was :

- *All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.*

The tenant moved out of the rental but later discovered that the landlord did not move into the rental unit; instead found a listing that the unit was for rent for November 1, 2018.

The landlord gave the following testimony. The landlord testified that the intention was to have his son move into the unit and become more independent. The landlord testified that by the time that he took possession of the property after the sale closed, his son had changed his mind and was concerned about the finances of living on his own while he is still a student at a post-secondary institution. The landlord testified that once his son finishes school and has steady income he will move into the unit but until then he has rented it out. The landlord testified that he wasn't aware he had to use the property for the intended purpose for six months as noted in the Notice to End Tenancy as he is a first time landlord.

Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (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 twelve times the monthly rent payable under the tenancy agreement.

The applicant seeks payment of compensation in the amount of twelve times the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the property was not used for the stated purpose for ending the tenancy. In the

landlords own testimony he acknowledges and concedes he did not act in accordance with what the basis of the notice stated. I accept the landlords testimony that he was unaware of the provision and that he meant no malice, however that does not relieve him of his responsibilities and obligations under the Act. The tenant has been successful in his application.

The Act provides that compensation is payable, regardless of intention if the rental unit is not used for the stated purpose for at least 6 months, beginning within a reasonable period after the effective date of the Notice. I am satisfied that the tenant is entitled to $\$825.00 \times 12 \text{ months} = \9900.00 plus the recovery of the \$100.00 filing fee for a total award of \$10,000.00.

Conclusion

The tenant has established a claim for \$10,000.00. I grant the tenant an order under section 67 for the balance due of \$10,000.00. This order may be filed in the Small Claims 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: June 27, 2019

Residential Tenancy Branch