



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL OLC MNDC ERP FF

Introduction

This hearing was convened pursuant to the Tenants' Application for Dispute Resolution made on June 17, 2019 (the "Application"). The Tenants applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice");
- an order that the Landlord comply with the *Act*, regulation, and/or the tenancy agreement;
- an order granting compensation for monetary loss or other money owed;
- an order granting reimbursement of the cost of emergency repairs made during the tenancy; and
- an order granting recovery of the filing fee.

The Tenant G.B. and the Landlords attended the hearing at the appointed date and time, and provided affirmed testimony.

On behalf of the Tenants, G.B. testified the Application package was served on the Landlords in person on June 12, 2019. The Landlords acknowledged receipt. Further, the Landlords submitted documentary evidence in response to the Application. S.G. testified it was served on the Tenants in person on June 13, 2019. The Tenants acknowledged receipt. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given a full 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, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

Residential Tenancy Branch Rule of Procedure 2.3 permits an arbitrator to exercise discretion to dismiss unrelated claims with or without leave to reapply. The most important issue to address is whether or not the tenancy will continue. Accordingly, I find it appropriate to exercise my discretion to dismiss all but the Tenants' request for an order cancelling the Two Month Notice and to recover the filing fee, with leave to reapply as appropriate.

Issues to be Decided

1. Are the Tenants entitled to an order cancelling the Two Month Notice?
2. Are the Tenants entitled to an order granting recovery of the filing fee?

Background and Evidence

The parties confirmed the residential tenancy began on August 1, 2016. Prior to that date, the Tenants rented the property and operated a thrift store out of it. The parties further confirmed that rent in the amount of \$400.00 per month is deducted from the paycheck of D.C., who was until recently employed by the Landlords. The Tenants did not pay a security deposit or pet damage deposit.

The Landlord wishes to end the tenancy. Accordingly, the Landlord issued the Two Month Notice. According to G.B., the Two Month Notice was received on June 12, 2019. The Two Month Notice submitted into evidence by the Tenants does not include page 2 of 3. The Tenant testified she received only pages 1 and 3 of the Two Month Notice.

In reply, S.G. testified the Two Month Notice was issued because the Landlords intend to occupy the rental unit. The Landlords did not submit a complete Two Month Notice into evidence.

Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Section 49 of the *Act* permits a Landlord to take steps to end a tenancy for cause in the circumstances described therein. The onus of providing evidence in support of a notice to end tenancy rests with a landlord. Section 49 of the *Act* confirms a notice must comply with the form and content requirements of section 52 of the *Act*. The language in the *Act* is mandatory. I find it is more likely than not that the Landlords provided the Tenants with an incomplete notice to end tenancy. Therefore, I find the Landlords have provided insufficient evidence to enable me to confirm the Two Month Notice complied with the form and content requirements of section 52 of the *Act*.

In light of the above, I order that the Two Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

Having been successful, I find the Tenants are entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from a future rent payment at the Tenants' discretion.

Conclusion

I order that the Two Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

I order may deduct \$100.00 from a future rent payment in recovery of the filing fee, at the Tenants' discretion

The Tenants are granted leave to reapply for the remainder of the relief sought at a later date (OLC, MNDC, ERP).

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: July 23, 2019

Residential Tenancy Branch