



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary claim of \$1,083.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, regarding having received a Two Month Notice of End of Tenancy for Landlord's Use ("Two Month Notice"). The Tenants also applied to recover the \$100.00 cost of their Application filing fee.

The Tenant, A.H. ("Tenant"), and the landlord, S.P. ("Landlord"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing, the Tenant and the Landlord were given the opportunity to provide their evidence orally and respond to the testimony of the other Party.

I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"). However, only the evidence relevant to the issues and findings in this matter are described in this decision. At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any orders sent to the appropriate Party.

In the hearing, the Tenant said that she did not receive any documentary evidence or other submissions from the Landlords, in response to the Tenants having served the Application and documentary evidence on the Landlords. The Landlord said that he did not know if they had served the Tenants with any evidence. Accordingly, I find it is more

likely than not that the Landlords did not serve the Tenants with the submissions uploaded to the RTB portal, so I will not consider the Landlords' evidence in this regard.

Issue(s) to be Decided

- Are the Tenants entitled to a monetary order, and if so, in what amount?
- Are the Tenants entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the periodic tenancy began on May 1, 2017, with a monthly rent of \$1,300.00 due on the first day of each month. The Parties agreed that the Tenants paid the Landlords a security deposit of \$650.00, and no pet damage deposit.

The Parties agreed that the Landlords served the Tenants with a Two Month Notice on April 15, 2019, with a vacancy effective date of June 30, 2019, as the Landlords were selling the residential property.

The Parties agreed that on April 24, 2019, the Tenants served the Landlords in person with a 10 Day Notice to end the tenancy early, with an effective vacancy date of May 3, 2019. The Parties agreed that the Tenants moved out on April 29, 2019. The Tenants claim that they are owed the equivalent of a month's free rent in these circumstances.

The Landlord said: "They moved out April 29 and paid for April, so as far as I know, they moved out in the last month they paid for. The way I see it, we gave them two months to find a new place to live, and we even wrote it in to the sales contract that the new owners would take them on until they found a place. It doesn't make sense why we would owe them another month when they've paid up to date that they moved out."

The Tenant said that their different positions on this matter involve their different interpretation of the Two Month Notice and the Act.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

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.

In addition to the Act, this information is set out on the second page of the Two Month Notice that the Landlords served on the Tenants.

The undisputed evidence before me is that the Tenants received a notice to end tenancy under section 49 of the Act, and that the Landlords have not given the Tenants the equivalent of one month's rent payable under the tenancy agreement. Accordingly, I award the Tenants with one month's rent - \$1,300.00 from the Landlords. Since they were successful, I also award the Tenants recovery of the \$100.00 Application filing fee for a total award of **\$1,400.00**.

Conclusion

The Landlords failed to compensate the Tenants with one month's rent payable under the Act, pursuant to sections 49 and 51 of the Act. The Tenants' claim for this compensation is successful in the amount of \$1,300.00. The Tenants are also awarded recovery of the \$100.00 filing fee for this Application from the Landlord.

I grant the Tenants a monetary order under section 67 of the Act from the Landlords in the amount of **\$1,400.00**.

This order must be served on the Landlords by the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: August 16, 2019

Residential Tenancy Branch