



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for money owed or compensation, and recovery of the filing fee.

The hearing was scheduled for 1:30pm on October 8, 2019 as a teleconference hearing. Only the Tenant appeared and provided affirmed testimony. No one appeared for the Landlord. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant and I were the only persons who had called into this teleconference.

The Tenant testified the Application and documentary evidence package was served to the Landlord by registered mail. Copies of the Canada Post registered mail receipts were submitted confirming the mailing took place on July 4, 2019. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have been served with the Application and documentary evidence on July 9, 2019, the fifth day after their registered mailing. The Landlord did not submit documentary evidence in response to the Application.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure. However, I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

1. Is the Tenant entitled to a Monetary Order for money owed or compensation under the *Act*, regulation, or tenancy agreement and recovery of the filing fee pursuant to sections 51, 67 and 72 of the *Act*?

Background and Evidence

The Tenant testified that the tenancy began on June 1, 2017. The Tenant stated that during the tenancy, the Tenant paid rent in the amount of \$2,500.00 to the Landlord each month. The Tenant paid a security deposit in the amount of \$1,250.00 as well as a pet damage deposit in the amount of \$500.00, both of which have been returned to the Tenant by the Landlord. The Tenant stated that the tenancy ended on May 31, 2019. The Tenant submitted a copy of the tenancy agreement in support.

The Tenant stated that on March 5, 2019 she received a Two Month Notice from the Landlord, stating that the rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse, or child; or the parent or child of that individual's spouse). The Two Month Notice dated March 5, 2019 has an effective vacancy date of June 1, 2019. The Tenant submitted a copy of the Two Month Notice in support.

The Tenant stated that she found a new rental unit and moved out on May 31, 2019 in compliance with the Two Month Notice. The Tenant stated that shortly after moving out, she noticed that there was a 'For Sale' sign in front of the rental property. The Tenant stated that she also found the listing online which further confirms that the Landlord listed the rental property for sale, contrary to the intended purpose of the Two Month Notice. The Tenant provided several copies of the online listing dated July 4, 2019 and indicates that the listing had been on the market for 22 days.

As a result, the Tenant stated that the Two Month Notice was served in bad faith as neither the Landlord nor their close family member intended in good faith to occupy the rental unit. Further to this, the Tenant is seeking compensation in the amount of twelve month's rent pursuant to section 51 of the *Act* as neither the Landlord nor their close family member occupied the rental unit for at least six months beginning within a reasonable period after the effective date of the Two Month Notice.

The Landlord did not attend the hearing to provide any evidence or testimony for my consideration.

Analysis

Based on the uncontested affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 51(2) of the *Act* states that in addition to the amount payable under subsection one, if 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 the rental unit is not used for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord

must pay the tenant an amount that is the equivalent to 12 times the monthly rent payable under the tenancy agreement.

I accept the Tenant's undisputed testimony that rent was \$2,500.00 and that neither the Landlord nor their close family member ever intended to occupy the rental unit. I accept the Tenant's documentary evidence which indicates that as of July 4, 2019 the Landlord had listed the rental property for sale which had been on the market for 22 days, since June 12, 2019. I find that it is more likely than not that the Landlord served the Two Month Notice as they intended to list the rental property for sale, which is contrary to the intended purpose of the Two Month Notice. I find that the Landlord served the Two Month Notice dated March 5, 2019 in bad faith.

Based on the above the Tenant has established an entitlement to \$30,000.00 (\$2,500.00 x 12 = \$30,000.00) in compensation from the Landlord, pursuant to section 51(2) of the *Act*. As the Tenant was successful with her Application, I also find that she is entitled to the recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*. As a result of the above and pursuant to section 67 of the *Act*, the Tenant is therefore entitled to a Monetary Order in the amount of \$30,100.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Tenant a Monetary Order in the amount of \$30,100.00. The Tenant is provided with this Order in the above terms and the Landlord must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 09, 2019

Residential Tenancy Branch