



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 under the Residential Tenancy Act (Act). The tenants applied for a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee paid for this application.

The tenants, the landlord's agent, and the landlord attended and they were provided the opportunity to present their evidence orally.

I have reviewed all relevant evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary and procedural Issue

The undersigned arbitrator called into the hearing well after it had begun, due to technical issues within the RTB system.

When the undersigned arbitrator called in 27 minutes after it had begun, all parties were present. I note that a full hearing was held on the tenants' application.

Issue(s) to be Decided

Are the tenants entitled to a monetary award and to recovery of the filing fee paid for this application?

Background and Evidence

The tenants' evidence showed that this tenancy started on September 1, 2014, for a monthly rent of \$1,300.00.

The tenants' evidence confirmed that they received a 2 Month Notice to End Tenancy for Landlord's Use of the Property (Notice), dated February 15, 2019. The Notice, submitted by the tenants, showed an effective end-of-tenancy date of June 1, 2019.

The reason listed on the Notice stated that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member. The tenants submitted a copy of the Notice.

The tenants submitted that they accepted the Notice, chose to move-out early and they vacated the rental unit on April 1, 2019.

The tenants said the landlord informed them his son would move into the rental unit, which is why he issued the Notice.

The tenants said that the landlord is not currently using and has not used the rental unit for the stated purpose since they vacated, as the landlord's son has not moved in and the house remained empty as of the application date of August 2, 2019.

The tenants submitted that they are entitled to compensation equivalent to 12 months' rent in the amount of \$15,600.00, as the landlord has not used the rental unit for the stated purpose listed on the Notice.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

In the case before me, the undisputed evidence is that on February 15, 2019, the landlord issued the tenants a Two Month Notice to End Tenancy for Landlord's Use of the Property, pursuant to section 49 of the Act, for an effective move-out date of June 1, 2019. The tenants complied and moved out early.

The landlord marked the Notice indicating that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member.

Section 51(2) provides that if steps have not been taken, within a reasonable period after the effective date of the notice, to accomplish the stated purpose for ending the tenancy, or if the rental unit is not used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice, the tenant is entitled to compensation equivalent of 12 months' rent under the tenancy agreement.

In this case, the effective date of the Notice is June 1, 2019, and I find the landlord had 6 months beginning within a reasonable period from that date to use the rental unit for the stated purpose.

I make no determination as to what a reasonable period from the effective date of the Notice would be in these circumstances; however, at the very minimum, the landlord has until November 30, 2019, to use the rental unit for the stated purpose.

As the tenants made their application for monetary compensation under section 51 of the Act on August 2, 2019, I find their application was premature when it was made.

As a result, I dismiss the tenants' application, with leave to reapply.

I note that this does not extend any applicable time limitation periods.

Conclusion

The tenants' application is dismissed with leave to reapply, as it was made prematurely.

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: November 15, 2019

Residential Tenancy Branch