



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the tenant's application and evidence submissions on file.

Issues

Is the tenant entitled to a monetary order for compensation for damage or loss?

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

Background & Evidence

On May 8, 2018, the landlord served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") with an effective date of July 15, 2018.

The tenant vacated the rental unit on July 31, 2018.

The tenant is claiming an amount equivalent to twelve times the monthly rent as compensation for the landlord not using the rental property for own use after issuing the Two Month Notice.

In support of her claim the tenant submits that the property was sold was on August 14, 2018.

The landlord acknowledges the property was sold on August 14, 2018 after plans for his daughter to move-in fell through.

Analysis

On the date the Two Month Notice was served on the tenant, Section 51 (2) of the Act stated that 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 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 double the monthly rent payable under the tenancy agreement.

On May 17, 2018 changes to the *Act* came into effect which changed the amount payable from a landlord to a tenant under section 51(2) of the *Act* from double the monthly rent payable to 12 months' rent. This change came into effect after the tenant received the Two Month Notice; therefore, the former provisions of section 51(2) of the *Act* apply to this dispute.

It was not disputed that the landlord or a close family member of the landlord did not move into the rental unit. The former provisions of section 51 of the *Act* also do not provide for a landlord to be excused from this penalty in the case of alleged extenuating circumstances.

I award an amount equivalent to double the monthly rent to the tenant as per the former provisions of section 51(2) of the *Act*. The monthly rent was \$1550.00; therefore, the tenant is awarded \$3100.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$3200.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$3200.00. 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: November 15, 2019

Residential Tenancy Branch