



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 tenants 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 respective evidence submissions on file.

Issues

Are the tenants entitled to a monetary order for compensation for damage or loss?

Are the tenants entitled to recover the filing fee for this application from the landlord?

Background & Evidence

The tenancy began on November 1, 2017 with a monthly rent of \$2000.00 payable on the 1st day of each month.

On May 3, 2019, the landlord served the tenants with a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Two Month Notice”) with an effective date of June 30, 2019. The effective was subsequently corrected to July 31, 2019. The notice was issued on the grounds that the landlord’s or a close family member intended to occupy the rental unit.

The tenants vacated the rental unit prior to the effective date on June 30, 2019.

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

In support of her claim the tenant submits as follows:

- The landlord initially asked them to sign a mutual agreement to end tenancy which they refused.
- When he served the Two Month Notice he was talking about doing renovations and did not mention anything about his wife moving in or his wife's medical condition.
- The landlord or the landlord's close family member never occupied the unit after they vacated.
- She observed new tenants move in on September 2, 2019.
- She submitted a statement from the new tenant stating that she is the new tenant in the unit.

The landlord testified that he did initially try to get the tenants to mutually agree to end the tenancy but they disagreed. The landlord testified that the tenants asked for a Two Month Notice so he issued such. The landlord testified that his wife moved in on July 6, 2019 but moved back home on July 18, 2019. The landlord submits that his wife needed to move into the rental unit to be closer to her work due to a medical condition which makes driving difficult. The landlord testified that their son also has a history of a serious medical condition and the landlord's mother-in-law was supposed to come from India to help take care of their son. The landlord testified that his mother-in-law was supposed to come on July 25, 2019 but on July 11, 2019 she suffered a stroke preventing her from coming. Therefore, his wife had no choice but to move back into the family home to take care of their son.

Analysis

Section 51 (2) of the Act provides 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 twelve times the monthly rent payable under the tenancy agreement.

Pursuant to section 51(3), the director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as the case may be, from:

- (a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, or

(b) using the rental unit for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

There was no dispute that the landlord did not accomplish the stated purpose for ending the tenancy after the effective date of the Two Month Notice. The landlord acknowledged that his wife only resided in the unit for a very short period, which was also disputed by the tenant. I find the landlord failed to provide sufficient evidence of the reasons put forth which allegedly prevented him from using the rental unit for the stated purpose. The landlord provided no documentary evidence that his mother-in-law suffered a stroke or that she had plane tickets booked to come from India 14 days prior to her stroke. Irrespective, I find the reasons put forth by the landlord for not carrying through with the intended purpose of the Two Month Notice to be farfetched. The landlord also provided no evidence to support that his wife even moved into the unit at all.

I allow the tenants claim and award an amount of \$24,000.00, which is twelve times the monthly rent of \$2000.00.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$25,000.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenants a Monetary Order in the amount of \$25,000.00. 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: December 17, 2019

Residential Tenancy Branch