



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held on January 13, 2020. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 51; and,
- recovery of the filing fee.

The Landlord and the Tenants both attended the hearing. The Landlord confirmed receipt of the Tenants' application and evidence by registered mail and did not take issue with the service of these documents. The Landlord stated that she only uploaded her evidence to the dispute access website, and did not serve her evidence to the Tenants directly. As stated in the hearing, and according to the Rules of Procedure, each party is expected to serve the other party with complete copies of all evidence to be relied upon at the hearing. As the Landlord did not serve her evidence to the Tenants, I find it is not admissible in the proceeding today.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

The Tenants stated they received a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the Notice) on June 27, 2019. The Tenants provided a copy of the Notice into evidence, and it indicates the following ground as a reason to end the tenancy:

- 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 Tenants explained that the effective date of the Notice was the end of August 2019, although they moved out part way through the month.

The Tenants are applying for compensation because they do not feel the Landlord has followed through with the reason behind wanting to end the tenancy. The Tenants made their application pursuant to section 51 of the Act on September 3, 2019, which was a matter of days after the effective date of the Notice. It appears the Tenants filed their application after becoming suspicious that the Landlord was not going to use the rental unit, as indicated on the Notice, and in the communications they had.

I turn to the following portion of the Act:

Tenant's compensation: section 49 notice

51 (2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if

(a) 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

(b) 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.

I note the Landlord issued the Notice under the grounds that she, or a close family member would be moving in. In order to satisfy these grounds, the Landlord or a close

family member must move in, within a reasonable period of time after the effective date of the Notice, for a period of at least 6 months. By filing their application so soon after they moved out, I find that the Tenants have not allowed the Landlord a reasonable period of time to accomplish the stated purpose, and to perform this stated purpose for the requisite 6-month period. I find the Tenants' application is premature, and is dismissed with leave to reapply.

I make no findings on the merits of the application, including whether or not the Landlord accomplished the stated purpose by moving in herself, rather than having her daughter move in.

Conclusion

The Tenants' application for compensation pursuant to section 51 of the Act is dismissed with leave to reapply.

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: January 15, 2020

Residential Tenancy Branch