



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution (the "Application") that was filed on November 12, 2019 by the Tenants under the *Residential Tenancy Act* (the "Act"), for a Monetary Order for damage or compensation.

The Tenant, the Tenant's Advocate C.K., the Landlord, and the Landlord's Agents K.M. and C.C. attended the hearing at the appointed date and time.

At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an 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.

Issue(s) to be Decided

1. Are the Tenants entitled to a Monetary Order for damage or compensation, pursuant to Section 67 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on June 1, 2016. Near the end of the tenancy, the Tenants were required to pay rent in the amount of \$1,508.00 to the Landlord each month. The Tenants paid a security deposit in the amount of \$675.00 and a pet damage deposit in the amount of \$675.00, both of which have since been returned to the Tenants. The Tenancy ended on May 1, 2019. Both parties provided a copy of the tenancy agreement in support.

The Tenant stated that she is seeking monetary compensation in the amount of \$18,096.00 which is equivalent to twelve months of rent. The Tenant stated that she was not served with a Two Month Notice to End Tenancy for Landlord's Use of the Property, however, she was provided with a notice drafted by the Landlord which indicated that the tenancy would not be renewed beyond May 31, 2019 as the Landlord intended on moving into the rental property.

The Tenant stated that the Landlord did not follow through on the intended purpose which was indicated in the letter, but instead, the Landlord commenced an extensive renovation of the rental property which was not mentioned to the Tenant prior to the end of tenancy. As such, the Tenant stated that the Landlord did not follow through on the intended purpose of the notice and she feels entitled to compensation in the amount of \$18,096.00.

In response, the Landlord confirmed that renovations have taken place prior to the Landlord moving into the rental property. The Landlord stated that her husband is performing the renovation on his spare time, which is why the work has taken so long to complete.

Analysis

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

Section 52 of the Act states that in order to be effective, a notice to end a tenancy must be in writing and must;

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,

- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.**

I accept that the Landlord created a notice seeking to end the tenancy as the Landlord intends to move into the rental property after May 31, 2019. I accept that the Tenants received the Landlord's notice and moved out of the rental property on May 1, 2019 as they were under the impression the Landlord was going to begin occupying the rental property immediately. Instead, the Landlord has been conducting renovations prior to occupying the home, which was not discussed with the Tenants. As such the Tenants are seeking compensation in the amount of \$18,096.00 which represent 12 months of rent.

In this case, I find that the notice to end tenancy drafted by the Landlord was not in the approved form. I find that the Tenant did not dispute the notice, instead she moved out of the rental property in compliance with the Landlord's notice.

As the Tenant accepted the invalid notice, I find that the Landlord is entitled to do what they wish with the rental property given that they have vacant possession of the rental property. I find that the Tenant is not entitled to monetary compensation as there is no good faith requirement associated with the Landlord's notice.

Section 51 of the *Act* speaks to compensation which may be awarded to a Tenant if after receiving a notice to end tenancy under Section 49 (Landlord's Use of Property) 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 find that the Tenant's claim relates to compensation found in Section 51 of the *Act*, however, during the hearing the parties testified and agreed that the Tenant was not

served with a notice to end tenancy under Section 49 of the Act. As such, there is not compensation awarded to the Tenants.

In light of the above, I dismiss the Tenants' Application without leave to reapply.

Conclusion

The Tenants have provided insufficient evidence to demonstrate that they are entitled to monetary compensation. As such, the Tenants Application is dismissed without 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: March 20, 2020

Residential Tenancy Branch