



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FFT

Introduction

On August 22, 2020, the Tenants applied for dispute resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement.

The matter was scheduled as a teleconference hearing. The Tenants and the Landlord attended the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They provided affirmed oral testimony and were given an opportunity to make submissions during the hearing.

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 to be Decided

- Are the Tenants entitled to compensation for money owed or damage or loss?

Background and Evidence

The Landlord and Tenants testified that the tenancy began in November or December of 2019 on a month to month basis. Rent in the amount of \$1600.00 was due to be paid to the Landlord by the first day of each month.

The Landlord and Tenants agreed that the tenancy ended on July 26, 2020 when the Tenants vacated the rental unit.

The Tenant, Mr. T.S. testified that they moved out of the rental unit due to a breakdown in the tenancy relationship with the Landlord. He testified that the Landlord put up a pool, and a playground in the yard which was shared on a 50/50 basis. The Tenant stated that these unilateral decisions of the Landlord caused him concern and he raised his concerns with her which resulted in ongoing conflict with the Landlord.

The Tenant testified that the Landlord began to restrict their access to areas of the property and became very agitated with them. Mr. T.S. testified that they were worried about her aggression, so they packed up their possessions and moved out of the rental unit.

The Tenant testified that they had to place their possessions in storage and incurred moving costs that they are seeking to recover from the Landlord.

The Tenant testified that they never received a notice to end tenancy from the Landlord.

In reply, the Landlord testified that she did not verbally tell the Tenants to move out and she never issued them any written notice to end the tenancy.

The Landlord testified that it was Mr. T.S. that built the playground and it was Ms. J.N. who purchased the pool.

Analysis

Section 7 of the Act provides,

if a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 44 of the Act provides information on how a tenancy may end; a tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

- section 45 [tenant's notice];
- section 46 [landlord's notice: non-payment of rent];
- section 47 [landlord's notice: cause];

- section 48 [landlord's notice: end of employment];
- section 49 [landlord's notice: landlord's use of property];
- section 49.1 [landlord's notice: tenant ceases to qualify];
- section 50 [tenant may end tenancy early];
- (b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;
- (c) the landlord and tenant agree in writing to end the tenancy;
- (d) the tenant vacates or abandons the rental unit;
- (e) the tenancy agreement is frustrated;
- (f) the director orders that the tenancy is ended.

Based on the affirmed testimony of the Landlord and Tenants, the documentary evidence, and on a balance of probabilities, I make the following findings:

I find that the Landlord never served a notice to end tenancy to the Tenants. I find that the tenancy did not end due to notice given by the Landlord. The Tenants were under no legal requirement or obligation under the Act to vacate the rental unit on July 26, 2020.

I find that the tenancy ended in accordance with section 44 of the Act when the Tenants chose to vacate the rental unit on July 26, 2020. Since the Tenants chose to vacate the rental unit, and since the Landlord is not responsible for improperly ending the tenancy, the Tenants' claim for moving expenses is dismissed without leave to reapply.

Conclusion

The Tenants' application for compensation due to an allegation that the Landlord improperly ended the tenancy was not successful.

I find that the tenancy ended in accordance with section 44 of the Act when the Tenants chose to vacate the rental unit on July 26, 2020.

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: November 24, 2020