



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on August 12, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation; and
- an order granting the return of the filing fee.

The Tenant and the Landlords attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application packages 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. Is the Tenant entitled to a monetary order for compensation, pursuant to Section 67 of the *Act*?
2. Is the Tenant entitled to an order granting the return of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the parties entered into a one-year fixed term tenancy beginning on February 1, 2020. During the tenancy the Tenants were required to pay rent in the amount of \$2,500.00 to the Landlords on the first day of each month. The Tenants paid a security deposit and a pet damage deposit both in the amount of \$1,250.00 which has since been returned to the Tenants. The tenancy ended on August 1, 2020.

The parties agreed that they come together on June 30, 2020 to discuss the Landlords' intent to sell the rental property. The parties were aware that they were in a fixed term tenancy, however, the Tenants wanted to help the Landlords and agreed to move out of the rental unit on or before September 1, 2020. The Tenant S.L. stated that she had no intent on moving prior to the conversation with the Landlords, however, recognized they were in a difficult situation and was amicable to moving, however, felt entitled to monetary compensation for doing so.

The parties agreed that the other tenant, A.A., is also listed on the tenancy agreement and signed a mutual agreement to end tenancy with the Landlords on July 5, 2020, agreeing to vacate the rental unit on July 31, 2020. The Tenant S.L. stated that she was unaware that A.A. signed the mutual agreement, however, the Tenant S.L. found a new residence and moved out of the rental unit on August 1, 2020. The Landlords provided a copy of the mutual agreement in support.

The Tenant S.L. is seeking compensation equivalent to half a month of rent as the Landlords chose to break the fixed term tenancy agreement by instigating the request to end the tenancy early resulting in the Tenant S.L. having to vacate the rental unit.

Analysis

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

In relation to the monetary compensation sought by the Tenant, Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

According to Section 44 of the *Act*,

- (1) 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:
 - (i) section 45 *[tenant's notice]*;
 - (i.1) section 45.1 *[tenant's notice: family violence or long-term care]*;
 - (ii) section 46 *[landlord's notice: non-payment of rent]*;
 - (iii) section 47 *[landlord's notice: cause]*;
 - (iv) section 48 *[landlord's notice: end of employment]*;
 - (v) section 49 *[landlord's notice: landlord's use of property]*;
 - (vi) section 49.1 *[landlord's notice: tenant ceases to qualify]*;
 - (vii) section 50 *[tenant may end tenancy early]*;
 - (b) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 97 (2) (a.1), requires the tenant to vacate the rental unit at the end of the term;
 - (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;
 - (g) the tenancy agreement is a sublease agreement.
- (3) If, on the date specified as the end of a fixed term tenancy agreement that does not require the tenant to vacate the rental unit on that date, the landlord and tenant have not entered into a new tenancy agreement, the landlord and tenant are deemed to have renewed the tenancy agreement as a month to month tenancy on the same terms.

According to the Residential Tenancy Policy Guideline 13;

A tenant is a person who has entered a tenancy agreement to rent a rental unit or manufactured home site. If there is no written agreement, the person who made an oral agreement with the landlord to rent the rental unit or manufactured home site and pay the rent is the tenant. There may be more than one tenant; co-tenants are two or more tenants who rent the same rental unit or site under the same tenancy agreement. Generally, co-tenants have equal rights under their agreement and are jointly and severally responsible for meeting its terms, unless the tenancy agreement states otherwise. "Jointly and severally" means that all

co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

A tenant can end a tenancy by giving the landlord a written notice. A tenancy may also end if the landlord and any tenant or co-tenant mutually agree in writing to end the tenancy. When a tenancy ends in these circumstances, the notice or agreement to end the tenancy applies to all co-tenants.

In this case, I accept that tenant A.A. signed a mutual agreement to end tenancy with the Landlords dated July 5, 2020 with an effective date of July 31, 2020. I find that while Tenant S.L. did not sign the mutual agreement to end tenancy, she is jointly and severally responsible along with her co-tenant A.A. and therefore the mutual agreement to end tenancy applies to both tenants equally. As such, I find that the Landlords did not breach the *Act*. I find that the tenancy ended by mutual agreement and that there is no compensation owed to the Tenant based on this agreement.

In light of the above, I dismiss the Tenant's claim for compensation without leave to reapply. As the Tenant was not successful with her Application, I find that she is not entitled to the return of the filing fee paid to make the Application.

Conclusion

The Tenant's Application for monetary compensation 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: December 04, 2020

Residential Tenancy Branch