



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNETC, FFT

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail on October 31, 2020 in accordance with Section 89 of the Act. Postal evidence indicates that the Landlord collected the Materials on November 3, 2020. Given the evidence of registered mail I find that the Landlord has received the Materials. The Tenants were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Background and Evidence

The tenancy under written agreement started on October 1, 2019. Rent of \$2,100.00 was payable on the first day of each month. The Landlord gave the Tenants a two month notice to end tenancy for landlord’s use (the “Notice”) dated July 25, 2020 with an effective move-out date of October 1, 2020. The reason stated on the Notice is that

the unit is to be occupied by the parent of the Landlord or the Landlord's spouse. The Tenants moved out of the unit on or about September 28, 2020 and their security deposit has been dealt with. The unit was sold no later than October 23, 2020. The Tenants claim \$25,200.00 as the equivalent of 12 months' compensation plus moving expenses for the Landlord's breach of the Notice and Act .

Analysis

Section 51(2) of the Act provides that 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.

Section 51(3) of the Act provides that 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.

Based on the undisputed evidence that the Landlord ended the tenancy in order for a parent to occupy the unit, the undisputed evidence that the unit was sold and without any evidence of extenuating circumstances, I find that the Tenants have substantiated that the Landlord failed to occupy the unit as set out in the Notice. The Tenants are therefore entitled to the compensation of **\$25,200.00**. As the Tenants are claiming

additional compensation for the Landlord's failure to occupy the unit and as compensation for this breach has been determined under the Act, I dismiss the Tenants' claim for moving costs. As the Tenants have been successful with their claim, I find that the Tenants are entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$25,300.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$25,300.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: February 16, 2021

Residential Tenancy Branch