



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement and recovery of the filing fee.

The Tenant, the Tenant's Advocate, 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 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. Is the Tenant entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement and recovery of the filing fee pursuant to sections 51, 67 and 72 of the Act?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on May 1, 2020. During the tenancy, the Tenant was required to pay rent in the amount of \$900.00 which was due to the Landlords on the first day of each month. The Tenant paid a security deposit in the amount of \$300.00. The Tenancy ended on September 1, 2020.

The parties confirmed that the Landlords served the Tenant with a Two Month Notice for Landlord's Use of the Property dated July 13, 2020 (the "Two Month Notice"). The Tenant vacated the rental unit on September 1, 2020 in compliance with the Two Month Notice.

The Landlord stated that the Two Month Notice was served to the Tenant as the Landlord intended to have her son move into the rental unit in order to complete his schooling at a local University which was meant to commence in early September 2020. The Landlord stated that due to the Covid-19 pandemic, the program that the Landlord's son had enrolled into postponed their classes. The Landlord referred to a general notice provided from the University dated September 3, 2020. The Landlord stated her son did not travel from out of Country as a result. The Landlords stated that they decided to re-rent the rental unit on a short-term basis until such a time that the Landlord's son would be able to attend classes at the University.

The Landlord stated that her son is currently locked down outside of the Country due to the Covid-19 pandemic and has decided to maintain his employment and has purchased a home as well. As such, the Landlord stated that her son does not intend on occupying the rental unit at this time. The Landlord stated that the rental unit is currently vacant.

The Tenant's advocate stated that the Landlord has not demonstrated that the Landlord's son is unable to travel currently. Furthermore, the Tenant's advocate stated that the Landlord's son outlined in a text message which has been included in the Landlords' evidence that the son enjoys his new job and new home, which the Tenant states is not following through on the intended purpose of the Two Month Notice.

Analysis

Section 51(2) of the *Act* states that in addition to the amount payable under subsection one, if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or the rental unit is not used for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent to 12 times the monthly rent payable under the tenancy agreement.

Section 51(3) 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.

I accept that the in this case, the parties agreed that the Landlord's son has not moved into the rental unit which had been the intended purpose of the Two Month Notice. The Landlord stated that an extenuating circumstance has prevented her son from moving into the rental unit. I find that the Landlord has provided insufficient evidence to demonstrate that her son was enrolled to take any specific program at the University. I find that the notice from the University is general with information to students attending a variety of programs and that this notice is not addressed to any specific individual. As such, I am not satisfied that the Landlord's son's program was postponed or cancelled, preventing the Landlord's son from travelling from abroad to occupy the rental unit while attending University.

Furthermore, I find that the Landlord provided a text message from her son which indicates that the son is painting his new home and likes his new job, therefore, he is no longer intending on travelling to occupy the rental unit. I find that the Landlord provided insufficient evidence to demonstrate that her son is unable to travel as a result of the Covid-19 Pandemic.

Based on the above, I find that the Tenant is entitled to **\$10,800.00** in compensation from the Landlords, pursuant to section 51(2) of the *Act*. As the Tenant was successful in their application, I also find that they are entitled to the recovery of the **\$100.00** filing fee pursuant to section 72 of the *Act*. As a result of the above and pursuant to section

67 of the *Act*, the Tenant is therefore entitled to a Monetary Order in the amount of **\$10,900.00.**

Conclusion

The Landlords have not taken steps to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the Two Month Notice. Pursuant to section 51, 67, and 72 of the *Act*, I grant the Tenant a Monetary Order in the amount of **\$10,900.00.**

The Tenant is provided with this Order in the above terms and the Landlords must be served with this Order as soon as possible. Should the Landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: February 8, 2021

Residential Tenancy Branch