



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC FFT

Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order in the amount of \$14,540.00 for compensation related to a Notice to End Tenancy for Landlord's Use of Property and to recover the cost of the filing fee.

The tenants and the landlords attended the teleconference hearing. The parties gave affirmed testimony, were provided the opportunity to present their evidence in documentary form prior to the hearing and to provide testimony during the hearing. Only the evidence relevant to my decision has been included below. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Neither party raised any concerns regarding the service of documentary evidence during the hearing. I find the parties were sufficiently served as a result as both parties confirmed having been served with documentary evidence and having the opportunity to review that evidence prior to the hearing.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties.

Issues to be Decided

- Are the tenants entitled to monetary compensation related to a Notice to End Tenancy for Landlord's Use of Property under the Act?
- If yes, are the tenants entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The only notice to end tenancy submitted in evidence for my consideration was a document created by the landlords or their realtor. It is neither a 2 Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice) or a 4 Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of a Rental Unit (4 Month Notice).

The parties were advised that the document served in evidence by the tenants for my consideration would not have ended the tenancy as the notice to end tenancy was created by the landlords or a realtor and is not an approved form under section 52 of the Act, which I will address further below.

Given the above, the hearing did not proceed further as the notice to end tenancy document before me is not a valid notice to end the tenancy under section 52 of the Act, and therefore, no compensation to the tenants stems from the non-conforming notice before me. The remedy for the tenants would have been not to move; however, in this matter the tenants vacated the rental unit.

Analysis

Based on the above, and on a balance of probabilities, I find the following.

Section 52 of the Act states that for notices to be effective, they must be on the approved form. I find that the notice to end tenancy before me was not a valid notice and had no force or effect as it was not on the approved form. Therefore, the remedy for the tenants was not to vacate the rental unit as the notice presented would not end the tenancy. However, the tenants vacated the rental unit based on what the landlords served on the tenants. I find that such an action does not result in compensation after the fact as compensation under section 51 of the Act relies on the tenants being served a notice to end tenancy under section 49 of the notice before me is an invalid notice that does not trigger the related compensation described under section 51.

Given the above, I dismiss the tenants' application due to insufficient evidence, without leave to reapply.

As the tenants' application was dismissed, I do not grant the filing fee under the Act.

Conclusion

The tenants' application is dismissed in full without leave to reapply due to insufficient evidence.

The filing fee is not granted.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 23, 2021

Residential Tenancy Branch