



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “*Act*”) for a monetary order for money owed or compensation for damage or loss. The matter was set for a conference call.

Both the Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at 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.

Issues to be Decided

- Is the Tenant entitled to a monetary order for money owed or compensation for damage or loss pursuant to section 51 of the *Act*?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Tenant testified that the tenancy began on September 1, 2018, that rent in the amount of \$800.00 was to be paid by the first day of each month, and at the outset of the tenancy, the Tenant had paid a \$450.00 security deposit.

All parties agreed that the Landlord served the Tenant a Two Month Notice to End Tenancy for the Landlord's Use of the Property (the "Notice") dated July 21, 2020. The Notice indicated that the Tenant was required to vacate the rental unit as of October 1, 2020. The reason checked off by the Landlord within the Notice was as follows:

- *The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse, or child; or the parent, child of that individual's spouse).*
 - *The Landlord or the landlord's spouse*
- *All the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.*

Both parties agreed that the Tenant moved out of the rental unit, in accordance with the Notice on August 31, 2020, and that the Landlord returned the security deposit to the Tenant. The Tenant submitted a copy of the Notice into documentary evidence.

The Tenant testified that in mid-October 2020, they found out that the Landlord had listed the property for rent at an increased monthly rent of \$1,200.00 per month. The Tenant testified that they had a friend email the Landlord to inquire about the rental unit in order to confirm it was the same unit. The Tenant testified that their friend provided them with two emails from the Landlord that confirmed the rental unit was back on the rental market. The Tenant submitted a copy of the online rental advertisement and the two emails into documentary evidence.

The Tenant is requesting compensation for the rental property not being used as indicated on the Notice.

The Landlords testified that they took over ownership of this rental unit on September 1, 2020, and that they did end this tenancy for their own use of the property. The Landlord testified that they did put the rental unit on the market for an increased rent amount in October 2020, but that it was because their in-laws had been delayed in their move to this country due to the COVID-19 pandemic. The Landlord testified that they had hoped to earn some additional income from the rental unit during this delay but that they had changed their minds and did not actually rent the unit to anyone, and that their in-laws did eventually move in. The Landlord submitted a letter signed by themselves and their in-law into documentary evidence.

When asked, the Landlord testified that their in-laws move in as of October 31, 2020.

Analysis

I have carefully reviewed the testimony and evidence, and on a balance of probabilities, I find as follows:

Before me, I have an application pursuant to section 51(2) of the *Act*, which states the following:

Tenant's compensation: section 49 notice

51 (2) 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.

I accept the testimony of the Landlord supported by the documentary evidence submitted by the Tenant that the Landlord did, in fact, listed the rental unit as available for rent at a monthly rent amount of \$1,200.00 per month in October 2020. I find that the Landlord was in breach of sections 49 and 51 of the *Act* when they put the rental unit back on the rental market within a month of this tenancy ending.

In addition, I must comment on the testimony provided by the Landlord during these proceedings; overall, I found that the Landlord offered inconsistent and contradictory testimony, which caused me to doubt their credibility. Specifically, the Landlord's claim that the COVID-19 pandemic had delayed their in-law's move to this country and that due to this delay, they chose to rent the rental unit out for a few months to make some additional income. However, they also testified that their in-laws moved into the rental unit on October 31, 2020, just 30 days after the end of tenancy days indicated on the Notice and only 15 days after they had been emailing a third party regarding the rental of this unit. After hearing the submission of this Landlord, I find that, on a balance of probabilities, this Notice had not been issued in good faith.

Pursuant to section 51 of the *Act*, I find that the Tenant has successfully proven they are entitled to compensation for the Landlord's breach of the *Act*. Therefore, I grant the Tenant a monetary order in the amount of **\$9,600.00**, consisting of the equivalent of 12 times the monthly rent payable under the tenancy agreement as compensation.

Conclusion

I grant the Tenant a Monetary Order in the amount of \$9,600.00. The Tenant is provided with this Order in the above terms, and the Landlord must be served with this Order as soon as possible. Should the Landlord 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 25, 2021

Residential Tenancy Branch