



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Extensive discussions over a 30 minute period resulted in both parties confirming that the tenant served the landlord with the notice of hearing package via Canada Post Registered Mail on December 1, 2020. The tenant repeatedly argued that he was confused as the Canada Post Online Tracking database was checked to reveal that the package was not yet served as of the date of this hearing. The tenant stated that because of this he did not serve the remaining 5 document files of evidence to the landlord. The tenant clarified that only 2 of the document files served to the landlord were included in the same package as the notice of hearing package served. The tenant stated that he wished to request an adjournment to allow him to serve the missing evidence to the landlord. The landlord stated that he did not want an adjournment and wished to proceed with the hearing. On this basis, I find that the tenant's request for an adjournment is without sufficient merit and the request is denied. The tenant was mistaken in his own actions to serve the named landlord with all of his relevant evidence pertaining to his application because he did not adhere to the Rules of Procedure regarding the service of evidence to the landlord. The hearing shall proceed with the tenant's 1 file containing the two served evidence documents to the landlord. The remaining 5 evidence document files uploaded are excluded from consideration in this hearing.

Both parties confirmed the landlord served the tenant with the 3 evidence document files submitted via Canada Post Registered Mail on February 19, 2021 to the tenant. I

accept the affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

At the outset, the tenant's application was clarified. The tenant stated that after complying with a 2 month notice to end tenancy for landlord's use of property in that the property was sold and the purchaser had asked the landlord in writing to give this notice because the purchaser or a close family member intends to occupy the rental unit. The tenant stated that this did not occur. The tenant stated that approximately 1 year after vacating the rental property, he discovered that it was converted to a "boarding house" where residents share the space. The tenant stated that the purchaser nor any close family member occupies the property. The tenant seeks compensation of \$5,896.00 for the difference in rent from the old tenancy compared to his new tenancy. No further details were provided. The tenant stated that he did file an application to dispute the original 2 month notice to end tenancy and a hearing took place in which his application was dismissed. The tenant stated that he had applied for review of this decision and that he was granted a review hearing, however before the review hearing took place, the tenant vacated the rental unit and abandoned the application.

I find based upon the direct testimony of the tenant that the requested monetary compensation of \$5,896.00 is dismissed without leave to reapply. In this case, the tenant had disputed the original notice to end tenancy and that application was dismissed. Despite the tenant applying for and being granted a review hearing the tenant had already vacated the rental unit before the scheduled review hearing. The review hearing decision is typically concluded by reinstating the original decision granted in the original hearing where the review applicant fails to attend. The tenant provided no evidence on this. The tenant has repeatedly stated that he suffers from personal health issues and a disability which caused him to abandon the rental property. I find that despite this the tenant was able to navigate the system to file an application to dispute the original notice and file yet a second application for review of that decision before vacating the rental unit. On this basis, I find that the tenant is not entitled to compensation for vacating the rental unit and moving to a new location. Section 51 of the Act was explained to both parties in that compensation to a tenant is limited to an amount equal to 12 months of rent where the landlord has failed to follow through on reason provided on the notice.

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: March 10, 2021

Residential Tenancy Branch