



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sutha Holdings Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNETC

Introduction

This hearing was convened in response to an application by the Tenant for a monetary order for compensation pursuant to section 67 of the *Residential Tenancy Act* (the “Act”).

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and evidence (the “Materials”) by registered mail on December 18, 2020 in accordance with Section 89 of the Act. Postal evidence indicates that the mail was not collected. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Materials regardless of them not collecting the mail. The Tenant was given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the compensation claimed?

Background and Evidence

The tenancy started in either 2011 or 2012. Rent of \$640.00 was payable on the first day of each month. On July 17, 2020 the Landlord served the Tenant with a two-month notice to end tenancy for landlord’s use (the “Notice”). The Notice sets out an effective

date of September 30, 2020. The Tenant disputed the Notice but was not successful and the Landlord was granted an order of possession that was effective November 6, 2020. The Tenant moved out of the unit on November 6, 2020. The Tenant paid the full rent for November 2020. The Tenant claims return of the rent paid for November 7 to 30, 2020, inclusive as it was not able to reside in the unit for this period. The Landlord did not pay the Tenant the equivalent of one month's rent as compensation for having ended the tenancy for landlord's use and the Tenant claims \$640.00.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Rent is no longer payable after a tenancy ends. Section 44(1)(d) and (f) provides that a tenancy ends when a tenant vacates a unit or when the director orders that the tenancy ends. Based on the undisputed evidence that the tenancy ended on November 6, 2020 when the Landlord was given an order of possession for the unit and when the Tenant moved out of the unit, I find that rent was no longer payable after November 6, 2020. The Tenant has therefore substantiated an entitlement to the return of rent for the period November 7 to 30, 2020 in the amount of **\$490.59** ($640.00/30 = 21.22$ per day; 21.33×23 days)

Section 51(1) of the Act provides that a tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement. Based on the undisputed evidence that the Tenant received the Notice and did not receive the equivalent of the one month's rent as required I find that the Tenant has substantiated an entitlement to **\$640.00** for a total entitlement of **\$1,130.59**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,130.59**. 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: April 22, 2021

Residential Tenancy Branch