



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMERICAN SCIENCE & TECHNOLOGY PUBLISHERS
CORP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNETC, FFT

Introduction

On January 4, 2021, the Tenant applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 51 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing with L.L. attending as his advocate. The Landlord/Respondent did not attend at any point during the 31-minute teleconference. At the outset of the hearing, I advised the parties that recording of the hearing was prohibited and they were reminded to refrain from doing so. They acknowledged these terms. As well, they provided a solemn affirmation.

L.L. advised that the Notice of Hearing and evidence package was served to the address provided for the Respondent on the Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”), by registered mail (the registered mail tracking number is noted on the first page of this Decision). She confirmed that this package was delivered to the Respondent, as it was not returned to the sender. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Respondent was deemed to have received the Notice of Hearing and evidence package five days after it was mailed. As such, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a Monetary Order for compensation?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

L.L. advised that the tenancy started on December 1, 2016 and that the tenancy ended on November 29, 2020 when the Tenant gave up vacant possession of the rental unit. Rent was established at \$1,000.00 per month and was due on the first day of each month. A security deposit of \$500.00 was also paid. A copy of the written tenancy agreement was not submitted as documentary evidence.

She stated that the Notice was served to the Tenant by hand on September 28, 2020 and the reason checked off on the Notice was that “All of 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.” The Notice indicated an effective end of tenancy date of November 30, 2020.

The Tenant is seeking compensation in the amount of twelve months’ rent because the Respondent did not use the property for the stated purpose on the Notice. While the Tenant only rented the basement, L.L. referenced documentary evidence submitted demonstrating that the Respondent listed the entire property for rent in December 2020, available for January 1, 2021. A copy of the contract of purchase and sale was also submitted as documentary evidence to support that the rental unit was purchased by the Respondent.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

With respect to the Tenant's claim for compensation owed to him as the Respondent did not use the property for the stated purpose on the Notice, I find it important to note that Section 49 of the *Act* outlines the definition of "close family member" as the individual's parent, spouse or child, or the parent or child of that individual's spouse. Furthermore, Section 51 of the *Act* states the following:

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.*

(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.*

When reviewing the totality of the evidence before me, the undisputed evidence is that the Respondent did not use the property for the stated purpose on the Notice. Furthermore, without any extenuating reasons being provided by the Respondent for not using the property for the stated purpose, I am not satisfied that the compensation requirements should be excused. Therefore, I find that the Tenant is entitled to a monetary award of 12 months' compensation pursuant to Section 51 of the *Act*. As such, I grant the Tenant a monetary award in the amount of **\$12,000.00**.

As the Tenant was successful in this claim, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

I provide the Tenant with a Monetary Order in the amount of **\$12,100.00** in the above terms, and the Respondent must be served with **this Order** as soon as possible. Should the Respondent 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: May 10, 2021

Residential Tenancy Branch