



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNETC, FFT

Introduction

This hearing was convened in response to the Tenant's application for compensation related to notice to end a tenancy for Landlord's use of property and to recover the fee for filing this Application for Dispute Resolution. Specifically, the Landlord is seeking compensation pursuant to section 51 of the *Residential Tenancy Act (Act)*.

The Tenant stated that on January 01, 2021 the Dispute Resolution Package and the evidence she initially submitted to the Residential Tenancy Branch were served to the Landlord. The Landlord acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

In January of 2021 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that her was served to the Tenant, via registered mail, on April 07, 2021. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

In April of 2021 the Tenant submitted evidence to the Residential Tenancy Branch, some of which was previously submitted to the Residential Tenancy Branch. The Tenant stated that this evidence was personally served to the Landlord in early April. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Is the Tenant entitled to compensation, pursuant to section 51 of the *Act*?

Background and Evidence

The Landlord and the Tenant agree that:

- this tenancy began on August 28, 2019;
- the Landlord did not serve the Tenant with a One Month Notice to End Tenancy for Cause;
- the Landlord did not serve the Tenant with a Two Month Notice to End Tenancy for Landlord's Use; and
- the Landlord sent the Tenant an email, dated February 20, 2020, in which she declared the tenancy was ending on March 31, 2020.

The email dated February 20, 2020 email was submitted in evidence. It is apparent from this email that the Landlord is attempting to sell the rental unit and she feels the manner in which the Tenant is maintaining the rental unit is interfering with her attempts to sell the unit.

The Landlord stated that the rental unit was vacated on March 14, 2020.

The Tenant stated that:

- she vacated the rental unit on the basis of the February 20, 2020;
- she vacated the unit on March 16, 2020; and
- she believes she is entitled to compensation pursuant to section 51 of the *Act* because she should have been served with a Two Month Notice to End Tenancy for Landlord's Use.

Analysis

Section 44(1)(a) of the *Residential Tenancy Act (Act)* stipulates that a tenancy ends if the tenant or landlord gives notice to end the tenancy in accordance with section 45, 46, 47, 48, 49, 49.1, and 50 of the *Act*. The evidence shows that neither party gave proper notice to end this tenancy in accordance with these sections and I therefore find

that the tenancy did not end pursuant to section 44(1)(a) of the *Act*.

I specifically note that the email dated February 20, 2020 did not serve as proper notice to end the tenancy pursuant to section 47 of the *Act* as it was not on the proper form and it did not provide the Tenant with all the pertinent information. As the email was not proper notice to end the tenancy, the Tenant was not obligated to comply with the email.

Section 44(1)(b) of the *Act* stipulates that a tenancy ends if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy. As there is no evidence that the tenancy agreement required the Tenant to vacate at the end of the fixed term of the tenancy, I find that the tenancy did not end pursuant to section 44(1)(b) of the *Act*.

Section 44(1)(c) of the *Act* stipulates that a tenancy ends if the landlord and the tenant agree in writing to end the tenancy. As there is no evidence that the parties agreed in writing to end the tenancy, I find that the tenancy did not end pursuant to section 44(1)(c) of the *Act*.

Section 44(1)(d) of the *Act* stipulates that a tenancy ends if the tenant vacates or abandons the rental unit. I find that this tenancy ended when the Tenant vacated the rental unit in March of 2020.

Section 44(1)(e) of the *Act* stipulates that a tenancy ends if the tenancy agreement is frustrated. As there is no evidence that this tenancy agreement was frustrated, I find that the tenancy did not end pursuant to section 44(1)(e) of the *Act*.

Section 49 of the *Act* permits a landlord to end a tenancy for a variety of reasons, by serving the tenant with a Two Month Notice to End Tenancy for Landlord's Use. Section 49(5) of the *Act* permits a landlord to end a tenancy once the landlord has entered into an agreement to sell the property, all the conditions on which the sale depends have been satisfied, and the purchaser asks the landlord, in writing, to give notice to end the tenancy because the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit or the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit. In circumstances such as these, where the Landlord is attempting to sell the property but has not yet entered into a completed sales agreement, the Landlord would not have the right to send the tenancy pursuant to section 49.

Section 51(1) of the *Act* stipulates that a tenant who receives a notice to end a tenancy under section 49 of the *Act* 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.

Section 52(2) of the *Act* stipulates that a landlord who serves a Two Month Notice to End Tenancy for Landlord's Use must pay the tenant an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if 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 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.

On the basis of the undisputed evidence, I find that the Landlord did not serve the Tenant with a Two Month Notice to End Tenancy for Landlord's Use, pursuant to section 49 of the *Act*. As the Tenant did not receive a Two Month Notice to End Tenancy for Landlord's Use, I find that the Tenant is not entitled to compensation pursuant to sections 51(1) or 51(2) of the *Act*. I therefore dismiss the Tenant's application for a monetary Order.

I find that the Tenant has failed to establish the merit of her Application for Dispute Resolution and I therefore dismiss her application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Application for Dispute Resolution is dismissed in its entirety.

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 01, 2021

Residential Tenancy Branch