



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, MNDCT, FFT

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. 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 to be Decided

Is the tenant entitled to a monetary order the equivalent of twelve months' rent as claimed and other costs incurred?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenant gave the following testimony. The tenancy began on May 1, 2011 with the \$600.00 rent due on the first of each month. On June 28, 2019 the landlord served the tenant with a Two Month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenant to move out of the rental unit by August 31, 2019. The landlord's 2 Month Notice, entered into written evidence by the tenant, identified the following reason for seeking an end to this tenancy:

- *The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse...*

The tenant moved out of the rental on July 31, 2019. The tenant testified that she was told by three neighbors that a "Caucasian" woman moved in. The tenant testified that she seeks the following compensation:

Item	Amount
12 Months Rent Compensation \$600.00 x12	\$7200.00
Truck Rental	92.82
Cleaning	75.00
Registered Mail x 2	22.72
Mover	150.00
Mover 3 x \$100.00	300.00
Filing Fee	100.00
Total Monetary Order	\$7940.54

The landlord gave the following testimony. The landlord testified that his mother moved into the suite three days after the tenant vacated and continues to live there. The landlord testified that the purpose of her moving in was so that she could be close to family and assist in helping take care of the landlord's children. The landlord testified that the unit is beneficial to his mother as it is a ground level unit, and she has bad

knees that limits her ability to climb stairs. The landlord testified that the tenant hasn't identified who these neighbors are and questions why it took the tenant almost two years to apply. The landlord testified that all type of women go to the unit as his mother requires at home medical care three times a day and that many different nurses come to the property. The landlord testified that the unit was never re-rented and that his mother has been in the unit since August 3, 2019.

Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (2) In addition to the amount payable under subsection (1), if
 - (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or
 - (b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of twelve times the monthly rent payable under the tenancy agreement.

The tenant did not have sufficient evidence to support her claim that "three neighbors" saw that the unit was re-rented. The tenant did not provide sufficient documentation or have the three individuals testify to that effect. The tenant was unable to provide a clear timeline of her claim.

The landlord gave clear concise and credible testimony. He provided details as to the logistical and medical benefits for his mother to move into the unit. The landlord outlined that the initial intention was to have his mother assist with his children but a year after taking possession of the unit, her health deteriorated badly and has now provided an unintended benefit of being able to assist her. The landlord re-iterated that the unit was never re-rented and that his mother has occupied it continuously since the tenant's tenancy ended.

Based on the above, the landlord has provided sufficient evidence to dispute the allegation of the tenant that the unit was rented out and satisfy me that his mother has resided in the unit as intended. As the tenant has not provided sufficient evidence to

support her claim, I hereby dismiss the request for 12 months compensation. The remainder of the tenant's application are costs she alleges as a result the landlord not complying with the Act that stemmed from the above. As I have found that no compensation is justified, the balance of the tenant's application is also dismissed in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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: November 01, 2021

Residential Tenancy Branch