



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

The former Tenants (hereinafter, the “Tenant”) filed an Application for Dispute Resolution on July 19, 2021 seeking compensation from the Landlord. This is related to the Landlord ending the tenancy in 2020. Additionally, they applied for reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on February 3, 2022. One party representing the Tenant was present at the hearing. The Landlord did not attend the hearing. I explained the process and they had the opportunity to ask questions on the process and present oral testimony during the hearing.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the Tenant made reasonable attempts to serve the Landlord with the Notice of Dispute Resolution for this hearing. This means the Tenant must provide proof that they served the document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

The Tenant provided evidence that they sent registered mail to the Landlord on August 2, 2021. This package included the Notice and their prepared evidence. This was within the time limit after they received the Notice of Dispute Resolution from the Residential Tenancy Branch. The tracking information shows delivery on August 5, 2021.

Based on the submissions of the tenant, I accept they served the notice of this hearing in a manner complying with s. 89(1)(c) of the *Act*. The hearing thus proceeded in the Landlord’s absence.

Background and Evidence

The Tenant did not provide a copy of a tenancy agreement between the parties, stating that the Landlord never provided a copy of the agreement to them. As stated in the hearing and entered in their Application, they paid a rent amount of \$1,300 per month. The tenancy started on August 11, 2018, and ended after the Landlord ended the tenancy, with the final day being July 11, 2020. The Tenant was one of three who were living in the rental unit.

On June 7, 2020, the Landlord advised the Tenant via text message that they had to end the tenancy by July 8, 2020. This message stated, "I will need a place empty by July 8, 2020 as I have unexpectedly receive notice that I have family that will be coming to Canada and will need a place to stay." Prior to this, the Tenant paid rent for June 2020; the Landlord refunded this back to the Tenant, for \$1,300.

In the hearing, the Tenant maintained that they personally signed a proper notice to end tenancy from the Landlord on paper. This document stated they had until July 8 and was "a proper tenancy document."

The Tenant believes the Landlord did not truly use the rental unit for family members because their one roommate secretly remained in the rental unit after the end-of-tenancy date. Further, another Tenant moved in on July 12, and the roommate who stayed behind told this new tenant that they were not allowed to share the fact that the roommate stayed behind in the rental unit. The Tenant here found out about this from the new tenant in late July or early August.

Analysis

Under s. 49 of the *Act* a landlord may end a tenancy if they or a close family member intends in good faith to occupy the rental unit. There is compensation awarded in certain circumstances where a landlord issues a Two-Month Notice, as provided in s. 51.

I find the Landlord here did not issue a Two-Month Notice document. The Landlord advised the Tenant that the tenancy must end via text message on June 7, 2020. There was no proper notice issued as the *Act* requires; however, the Tenant did not dispute the Landlord ending the tenancy in this manner. Such as it exists, I find the Tenant agreed to end the tenancy: "Okay sounds good and no worries we understand." Though the Tenant described signing an official

end-of-tenancy notice – i.e., a document – I find this less likely in fact because the prescribed form does not require the Tenant's own signature.

The Tenant now submits that no family members of the Landlord ever entered the rental unit, and the Landlord continued to rent to then-current roommates or found other new tenants shortly thereafter. I find this was not a proper end to the tenancy; yet the Tenant acceded to this arrangement and moved out. I find this was a mutual agreement to end the tenancy, undertaken informally via text message. However untruthful the Landlord was at that time is irrelevant because the Tenant chose not to challenge that, and instead moved out on the basis of a one-month advance notice.

With the tenancy not ending by way of a Two-Month Notice, there is no link to s. 51, and the Tenant here is not eligible for compensation for this reason. The *Act* only allows for compensation in circumstances where a landlord service a Two-Month Notice. I am not satisfied that was how the tenancy ended here.

Because the Tenant was not successful in their claim, I make no award for the Application filing fee.

Conclusion

For the reasons outlined above, I dismiss the Tenant's claim for monetary compensation, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: February 18, 2022

Residential Tenancy Branch