



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC FFT

Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The tenants applied for a monetary order in the amount of \$16,680.40, for 12 months' compensation due to the landlords failing to comply with the reason stated on the 2 Month Notice to End Tenancy for Landlord's Use of Property dated July 22, 2021 (2 Month Notice), and to recover the cost of the filing fee.

The tenants and the landlord attended the teleconference hearing. All participants were affirmed, the hearing process was explained, and the parties were given an opportunity to ask questions about the hearing process. Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence related to the facts and issues in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Neither party raised any valid concerns regarding the service of documentary evidence. Based on the above, I find the parties were sufficiently served according to the Act.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was

surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

Furthermore, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

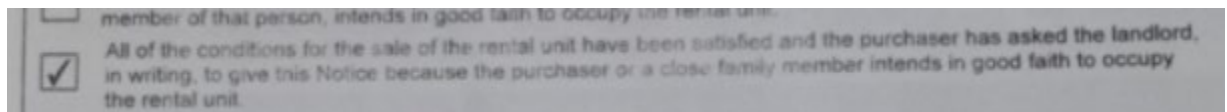
Issues to be Decided

- Are the tenants entitled to a monetary order for compensation in the amount of 12 times the monthly rent pursuant to section 51(2) of the Act?
- If yes, are the tenants also entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The tenants stated that the tenancy began about 5.5 years ago. There was no dispute that the monthly rent by the end of the tenancy was \$1,381.70 per month.

The tenants were served with the 2 Month Notice dated July 22, 2021. The effective vacancy date listed on the 2 Month Notice was September 30, 2021. The tenants did not dispute the 2 Month Notice and vacated the rental unit on September 30, 2021. The reason stated on the 2 Month Notice reads:



The tenants stated that on 02/11/2021 they saw the rental unit being listed for rent through SCL (Rental Agency). The landlord stated that their plans were for his "sister's family" to move into the rental unit but that there was a death in the family so plans had changed. The landlord also alleges that there were a lot of safety issues inside the home such as the steps, aluminum wiring and light fixtures.

The tenants stated that there is insufficient evidence from the landlord to support that the landlord's sister could not move into the rental unit and claims that the 2 Month Notice was issued so the landlord could raise the rental to \$2,500.00 or \$2,300.00 instead of the \$1,381.70 the tenants were paying per month.

Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

12 times the monthly rent - Section 51(2) of the Act applies and states:

Tenant's compensation: section 49 notice

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.

[emphasis added]

Based on the evidence before me, I find the landlord's sister and his sister's family do not meet the definition of a "close family member" as RTB Policy Guideline 2A: Ending a Tenancy for Occupancy by Landlord, Purchaser or Close Family Member applies and states:

"Close family member" means the landlord's parent, spouse or child, or the parent or child of the landlord's spouse. **A landlord cannot end a tenancy under section 49 so their brother, sister, aunt, niece, or other relative can move into the rental unit.**

[emphasis added]

Therefore, given the evidence before me, I find that I do not need to consider anything further in this matter as the purchaser's intention to have his sister and the sister's family move into the rental unit was not a close family member and that none of the submissions of the landlord support extenuating circumstances under the Act, which are defined as "circumstances where it would be unreasonable and unjust for a landlord to pay compensation, typically because of matters that could not be anticipated or were outside a reasonable owner's control." In the matter before me, the purchaser intended to have his

sister and the sister's family move into the rental unit, which does not meet the definition of close family member.

Given the above, I find the tenants' application is successful and that the purchaser/landlord has failed to use the rental unit for the stated purpose, "close family member" within a reasonable period after the effective date of the notice and for at least 6 months' duration. Therefore, I find the landlord must pay the tenants 12 times the monthly rent of \$1,381.70, which is **\$16,580.40**.

As the tenants' application was fully successful, I grant the tenants the recovery of the cost of the filing fee in the amount of **\$100.00** pursuant to section 72 of the Act.

I find the tenants have established a total monetary claim of **\$16,680.40** comprised of \$16,580.40, which is 12 times the monthly rent, plus the \$100.00 filing fee.

Conclusion

The tenants' application is fully successful.

I find the landlord failed to use the rental unit for the stated purpose as his sister and his sister's family are not close family members. I also find the landlord has failed to prove extenuating circumstances as noted above.

The tenants are granted a monetary order pursuant to section 67 of the Act, in the amount of \$16,680.40 as indicated above. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The landlord is reminded that they can be held liable for all enforcement costs under the Act.

This decision will be emailed to both parties. The monetary order will be emailed to the tenants only for service on the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 2, 2022