



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

The former Tenant (hereinafter the “Tenant”) filed an Application for Dispute Resolution on November 23, 2021. They are seeking compensation related to the Landlord ending the tenancy, and the Application filing fee.

The matter proceeded by hearing on February 1, 2022 pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”). In the conference call hearing I explained the process and offered the attending party the opportunity to ask questions.

Preliminary Matter

In the hearing, the Tenant set out how they notified the Landlord of this hearing. This was attempted delivery of the Notice of Dispute Resolution, and their prepared evidence. They attempted an in-person delivery to the Landlord on December 3, 2021. This proved fruitless, with no one answering the door upon their knock. The Tenant resorted to registered mail to the address given previously by the Landlord. This piece of mail did not receive pick-up by the Landlord, and prior to the hearing the Tenant received that piece back from the Landlord.

The postal item was unclaimed and returned to sender. The Tenant in the hearing specified they used the postal address the Landlord gave to them. The Tenant provided record tracking number for the delivery item. From this evidence, I am satisfied they served the Landlord in a manner compliance with s. 89(1)(c) of the *Act*. The delivery date was December 3, 2021, after their attempt at in-person delivery. As per s. 90(a), I deem the material received by the Landlord on December 8, 2021, and I conclude the Landlord was notified of this hearing by the Tenant.

The Tenant referred to materials they provided to the Landlord throughout the hearing. They did not provide these materials to the Residential Tenancy Branch, as required by the *Residential Tenancy Branch Rules of Procedure*. These materials must accompany their Application or be provided to the Residential Tenancy Branch shortly thereafter.

With my finding that the Tenant successfully served their material to the Landlord, I afforded the Tenant the opportunity to provide their evidence to the Residential Tenancy Branch on the same day of the hearing, February 1, 2022. The Tenant did not provide the material in a timely manner as per my directive. I do not accept the Tenant's evidence for the reason it was not provided in a timely manner to the Residential Tenancy Branch, from their Application in November. I proceed with the decision below based on the Tenant's affirmed testimony in the hearing.

Issues to be Decided

Is the tenant entitled to monetary compensation for the landlord ending the tenancy, pursuant to s. 51 of the *Act*?

Is the tenant entitled to recover the filing fee for the tenant's Application, pursuant to s. 72 of the *Act*?

Background and Evidence

The Tenant provided the basic details on their Application and confirmed these details verbally in the hearing. The tenancy started on December 15, 2020 on a month-to-month basis. They paid \$2,600 per month and paid the security deposit at the start of the tenancy for \$1,300. Rent was payable on the 15th of each month.

The Landlord came to the Tenant on June 6, 2021 with a Two-Month Notice to End Tenancy for the Landlord's Use of the Property. According to the Tenant the Landlord wanted to tear the house down. This set the end-of-tenancy date for August 28. On July 5 the Tenant gave the Landlord notice they would leave by July 15.

In the hearing, the Tenant set out that the Landlord accepted the Tenant's notice to end the tenancy early. The Tenant made the request for the final month of the tenancy to be rent-free, and the return of the security deposit.

The Tenant described how the Landlord came to the rental unit for an inspection on July 15. The Landlord returned the security deposit. They then instructed the Tenant to wait

until August 28 for the final month rent refund, for the amount of \$2,600. The Landlord did not return the final month of rent to the Tenant, and when the Tenant tried to contact the Landlord, there was no response from the Landlord.

Here the Tenant claims only for that final month of rent for \$2,600. They plead that this is in line with the Two-Month Notice issued by the Landlord, and s. 51 of the *Act*.

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. This is covered in s. 51:

- (1) A tenant who receives a notice to end a tenancy under s. 49 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.

On June 5, The Tenant ended the tenancy early, as permitted by s. 50. Further, s. 50(3) especially provides that a notice from a tenant to end early "does not affect the tenant's right to compensation under s. 51."

I grant the Tenant the amount of one-month's rent in line with s. 51(1). The *Act* s. 50(3) is very specific about the Tenant's right to one full month's rent in line with the Two-Month Notice. I grant the Tenant \$2,600 compensation.

Because the Tenant is successful in their Application, I grant a refund of the Application filing fee.

Conclusion

Pursuant to s. 51 and s. 72 of the *Act*, I grant the Tenant a Monetary Order in the amount of \$2,700. I provide the Tenant with this Order in the above terms, and they must serve it to the Landlord as soon as possible. Should the Landlord fail to comply with this Order, the Tenant may file the Order in the Small Claims Division of the Provincial Court where it may be 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 s. 9.1(1) of the *Act*.

Dated: February 11, 2022