



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M FFT

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

- cancellation of the landlord's Four Month Notice to End Tenancy for Demolition or Conversion of Rental Unit (the "**Notice**") pursuant to section 49;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard. At the outset of the hearing, the landlord stated that the tenant had provided the landlord's incorrect surname on the application. He stated what his correct surname was and the tenant agreed. The parties agreed that the application should be amended to correct the landlord's surname.

The parties agreed that the tenant had vacated the rental unit almost one month prior to the hearing. As such, the tenant no longer requires the cancellation of the Notice (as the issue is moot). The tenant stated that he did not receive compensation equal to one month's rent that he was entitled to. The landlord testified that this was his first time evicting someone and that he did not know he was required to do so at the time of the eviction. He stated that he now understands this, but also that the tenant was entitled to withhold the last month's rent, and that the tenant did not.

I advised the parties that the issue of the landlord's non-payment of an amount equal to one month's rent was not one that was before me at this hearing, and that I could not adjudicate the issue. I noted that if the parties could reach an agreement on the matter, I could issue a consent order. The landlord stated that he would pay the amount to the tenant, if he was obligated. I advised him that I could not make any such determination, as I did not have a full evidentiary record before me (indeed, the landlord did not provide any documentary evidence in this application).

I advised the parties of section 51 of the Act, and stated that, if the landlord had issued a notice pursuant to section 49 of the Act, in the usual course, the landlord would be required to pay the tenant an amount equal to one month's rent. I also noted that section 51(1.1) of the Act gave the tenant the *option* of withholding the last month's rent in satisfaction of this amount, but that it was not required.

I reiterated that the issue was not before me and that I would not make any factual determination as to whether the landlord was obligated to pay any amount under this

section. I would only advise them of what the Act stated. I stated that if the parties could not reach an agreement, that the tenant would need to make a further application to recover this amount.

Based on this, the landlord agreed to pay the tenant an amount equal to one month's rent.

The parties agreed that the landlord would pay the tenant \$850 on or before April 30, 2022 via e-transfer (email address on the cover of this decision) in order to resolve any future claim the tenant might bring related to the landlord breaching section 51(1) of the Act.

The tenant asked what his course of action was in the event the landlord did not use the rental property for the purpose stated on the Notice. I advised him that this matter was not before me and I would not make a determination on the matter but noted that the Act does contain penalties for such conduct and that the tenant would need to make a further application if he thought he was entitled to them. I confirmed with both parties that the agreement set out above does not prevent the tenant from making such a claim, and only relates to section 51(1) of the Act.

The parties acknowledged they understood.

To give effect to the settlement reached between the parties, and as discussed at the hearing, I issue the attached monetary order ordering the landlord to pay the tenant \$850 by April 30, 2022.

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: March 28, 2022

Residential Tenancy Branch