



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCT, OLC, FFT**

Introduction

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

1. An Order for compensation for a monetary loss or other money owed pursuant to Sections 62 and 67 of the Act;
2. An Order for the Landlord to comply with the Act, regulations and tenancy agreement pursuant to Section 62(3) of the Act;
3. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's son, PB, and the Tenants, JV and GG, and Tenants' Legal Counsel, JD, attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Tenants testified that they served the Landlords with the Notice of Dispute Resolution Proceeding package for this hearing on November 22, 2021 by email (the "NoDRP package"). The Tenants testified they also served the NoDRP package by registered mail, but did not provide the Canada Post Tracking numbers for proof of service. The Landlords confirmed that they will accept service of legal documents by email. The Tenants stated they served their evidence on the Landlords by email on February 19, 2022. The Landlords confirmed receipt of the NoDRP package on an

unspecified date and the Tenants' evidence on February 23, 2022. I find that the Landlords were deemed served with the NoDRP package on November 25, 2021 pursuant to Section 89(1)(f) of the Act and Sections 43(2) and 44 of the *Residential Tenancy Regulation* (the "Regulation"). I find that the Landlords were served with the Tenants' evidence on February 23, 2022 pursuant to Section 88(j) of the Act and Sections 43(1) and 44 of the Regulation.

Issues to be Decided

1. Are the Tenants entitled to an Order for compensation for a monetary loss or other money owed?
2. Are the Tenants entitled to an Order for the Landlord to comply with the Act, regulations and tenancy agreement pursuant to Section 62(3) of the Act;
3. Recovery of the application filing fee pursuant to Section 72 of the Act.

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on October 1, 2021. The fixed term was to end on October 1, 2022. Monthly rent was \$1,650.00 payable on the first day of each month. A security deposit of \$825.00 was collected at the start of the tenancy and is still held by the Landlord.

The Tenants stated, on October 22, 2021, they notified the Landlord that they would be vacating the rental unit on November 30, 2021. The Tenants, in that same email, also offered, "Despite your assurance that no penalties will be charged for ending the lease, we are offering to help re-rent the unit." An email from the Landlord following the Tenants notice stated, "No, we are not open to you finding someone to take over the Lease." The Tenants testified that they paid November's rent in full. The Tenants Legal Counsel submitted that the Tenants made attempts to assign the rental unit, but the Landlord was not receptive to their suggestions or help.

The Tenants provided their Legal Counsel's address as their forwarding address to the Landlord in mid November, and their last day in the rental unit was November 21, 2021.

The Tenants did not damage the rental unit. The Tenants also stated that a move-in inspection was not completed at the beginning of the tenancy.

The Landlord found a new Tenant for the rental unit who began their tenancy on December 1, 2021. The Landlord testified that the new tenants are paying \$1,700.00 per month for rent. The Landlord states they were put in a compromised position and they should be compensated.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

The Tenants seek the return of their damage deposit and an Order confirming the end of the tenancy. The Tenants had communication with the Landlord that they left the rental unit on November 21, 2021, but they had paid rent to the end of November 2021. The Tenants attempted to work with the Landlord to find new tenants to assign their tenancy agreement. The Landlords did not accept the Tenants offers of help with re-renting the unit, but were able to find new tenants on their own. The new tenant's tenancy began on December 1, 2021. I find pursuant to Sections 44(1)(a)(i) and 44(1)(d) of the Act that the Tenants' tenancy with the Landlords ended on November 30, 2021.

The Tenants applied for dispute resolution on November 19, 2021 which was before their tenancy ended. I find their monetary application seeking the return of their damage deposit is premature and do not grant them the monetary award they are seeking. I dismiss their application claims with leave to re-apply for monetary losses as they determine is needed.

Conclusion

This tenancy ended on November 30, 2021.

The Tenants' claims are all dismissed with leave to re-apply.

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

Dated: March 24, 2022

Residential Tenancy Branch