



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

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

:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Are the tenants entitled to a monetary order the equivalent of twelve months' rent as claimed?

Background and Evidence

AM gave the following testimony on behalf of the tenants. The month to month tenancy had a monthly rent payable of \$1700.00 due on the first of each month. On March 31, 2021 the landlord served the tenant with a Two month Notice to End Tenancy for Landlords' Use of Property with an effective date of May 31, 2021. The ground for the Notice was :

- *All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.*

AM moved out of the rental but later discovered that the landlord did not move into the rental unit; instead found a listing that the unit was for rent. AM testified that the property was a side by side duplex. AM testified that the new landlord renovated each side and converted it into an up and down unit on each side thus changing it from two units to four units. AM testified that he attended the property and spoke to the tenants in both units and each advised that they were tenants that moved in after the renovation was complete. AM requests 12 months compensation as the landlord has not used the property for the purpose noted on the Notice to End Tenancy.

The landlord gave the following testimony. The landlord testified he did renovate and convert the units. The landlord testified that his daughter moved into the one bedroom lower unit with the present tenant from August 1, 2021 to March 31, 2022. The landlord testified that his daughter moved into the lower unit with the present tenant, although they had no previous relationship. The landlord testified that his daughter is nineteen and its time for her to move out. The landlord testified that there was an area in the one bedroom unit cordoned off for her to sleep. The landlord testified that the tenants should not be entitled to any compensation.

Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (2) In addition to the amount payable under subsection (1), if
 - (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or
 - (b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of twelve times the monthly rent payable under the tenancy agreement.

The applicant seeks payment of compensation in the amount of twelve times the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the property was not used for the stated purpose for ending the tenancy. **In the landlords own testimony he acknowledges and concedes he did not act in accordance with what the basis of the notice stated.** Renovating and converting one unit into two is not using the property for the stated purpose. In addition, the landlords submission that his 19 year old daughter moved in with a complete stranger is less than compelling, as is the submission that she shared this one bedroom by sleeping in a cordoned off area of the suite.

The Act provides that compensation is payable, regardless of intention if the rental unit is not used for the stated purpose for at least 6 months, beginning within a reasonable period after the effective date of the Notice. Based on the above, I am satisfied that the tenant is entitled to \$1700.00 x 12 months = \$20,400.00.

Conclusion

The tenants have established a claim for \$20,400.00. I grant the tenants an order under section 67 for the balance due of \$20,400.00. This order may be filed in the Small Claims Court and 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 30, 2022

Residential Tenancy Branch