



Dispute Resolution Services

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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, made on September 19, 2021 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation;
- an order granting the return of the filing fee.

The Tenant and the Landlord's Agent attended the hearing at the appointed date and time. At the start of the hearing, the Landlord's Agent confirmed receipt of the Tenants' Application and documentary evidence. As such, I find that these documents were sufficiently served pursuant to Section 71 of the *Act*. The Landlord's Agent stated that the Landlord did not submit any documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Are the Tenants entitled to a Monetary Order for money owed or compensation for loss under the *Act*, regulation, or tenancy agreement and recovery of the filing fee pursuant to sections 51, 67 and 72 of the *Act*?

Background and Evidence

At the start of the hearing, the Landlord's Agent stated that she is not the owner of the rental property, and that the proper Landlord has not been named in the Tenants' Application. As the Tenant submitted their Application for compensation relating a Two Month Notice for Landlord's Use of the Property, I questioned the Tenant as to who was identified as the Landlord or Purchaser on the Two Month Notice. The Tenant stated that he was never served with a Two Month Notice to End Tenancy, but that it was just a verbal discussion surrounding the reasons to end of tenancy, and that the Tenant had prepared a copy of the Two Month Notice for the Landlord to complete, however, it was never returned to the Tenants. The Tenant confirmed that he was not served with a Two Month Notice.

Analysis

Based on the oral testimony and documentary evidence, and on a balance of probabilities, I find:

According to Section 51(1) **A tenant who receives a notice to end a tenancy under section 49** [*landlord's use of property*] 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.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

(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.

(3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required

under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as the case may be, from
(a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, or
(b) using the rental unit for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

The Tenants are claiming compensation equivalent to twelve times the amount of monthly rent after the Tenants vacated the rental unit based on Landlord's verbal indication that they were going to occupy the rental unit for their own use.

In this case, I accept that the Tenants were not served with a Two Month Notice to End Tenancy for Landlord's Use. I find that the compensation the Tenants are claiming for is only applicable to Tenants who have received a Notice to End Tenancy under Section 49 of the *Act*. As the Tenants did not receive a Two Month Notice, I find that they are not entitled to compensation relating to a Notice that they were not served with.

In light of the above, I dismiss the Tenants' Application without leave to reapply.

Conclusion

The Tenants' Application is dismissed without leave to reapply.

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 10, 2022

Residential Tenancy Branch