



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on September 20, 2021. The Tenant applied for compensation pursuant to section 51(2) of the Residential Tenancy Act (the Act) and to recover the filing fee pursuant to section 72 of the Act.

The Tenant attended the hearing on her own behalf. The Landlord attended the hearing and was represented by AS, legal counsel.

The Tenant testified the Notice of Dispute Resolution Proceeding package was served on the Landlord by registered mail. The Landlord acknowledged receipt.

On behalf of the Landlord, AS advised that the documentary evidence upon which the Landlord wished to rely was served on the Tenant by email and by registered mail. The Tenant acknowledged receipt.

No issues were raised with respect to service or receipt of the above documents during the hearing. The parties were in attendance and were prepared to proceed. As a result, I find the above documents were sufficiently served for the purposes of the Act, pursuant to section 71 of the Act.

The parties were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution proceedings.

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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to compensation pursuant to section 51(2) of the Act?
2. Is the Tenant entitled to recover the filing fee pursuant to section 72 of the Act?

Background and Evidence

The parties agreed the tenancy began on October 30, 2019, and that the Tenant vacated the rental unit on August 1, 2021. The parties agreed that at all material times, rent of \$3,400.00 per month was due. The parties agreed the Tenant paid a security deposit of \$1,825.00, which the Landlord returned to the Tenant at the end of the tenancy. A copy of the signed tenancy agreement was submitted into evidence.

The Tenant seeks \$40,800.00 in compensation. The Tenant testified that the tenancy ended pursuant to an email from the Landlord dated June 29, 2021, a copy of which was submitted into evidence. The email states:

My landlor [sic] at the place where I am living now gave me 2 months notice to move out. I have decided to move in to [sic] my unit. So please take this email as a 2 months notice for your unit at [the rental address]

The Tenant confirmed she did not receive a Two Month Notice to End Tenancy for Landlord's Use of Property in the form provided by the Residential Tenancy Branch.

The Tenant also seeks to recover the \$100.00 filing fee paid to make the application.

Analysis

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

Section 49(3) of the Act permits a landlord to end a tenancy by giving a notice to end the tenancy if the landlord intends in good faith to occupy the rental unit. Section 49(7) of the Act confirms the notice to end tenancy must comply with section 52 of the Act.

Section 52 of the Act confirms that, to be effective, a landlord's notice to end a tenancy must be in writing, be signed and dated by the landlord, give the address of the rental unit, state the effective date, state the grounds for ending the tenancy, and be in the approved form.

Section 51(2) of the Act provides for compensation equal to 12 months rent if the landlord does not establish that they accomplished the purpose stated in the notice to end tenancy within a reasonable period after the effective date of the notice to end tenancy, and that the rental unit was used for the stated purpose for at least six months' duration after the effective date of the notice to end tenancy.

In this case, I find that the Landlord's email dated June 29, 2021, was not a valid notice to end tenancy in the approved form. As a result, I find it was ineffective to end the tenancy and the Tenant was under no obligation to vacate the rental unit based on the Landlord's email. As a result, I find that the Tenant's claim for compensation cannot succeed.

Considering the above, I find that the Tenant's requests for compensation and for recovery of the filing fee are dismissed without leave to reapply.

Conclusion

The Tenant's requests for compensation and for recovery of the filing fee are 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: June 16, 2022

Residential Tenancy Branch