



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC FF

Introduction

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on June 23, 2022. The Tenant applied for monetary compensation pursuant to section 51(2) of the *Residential Tenancy Act* (the *Act*).

The Tenant was present at the hearing and provided affirmed testimony. The Landlord was not present at the hearing. The Tenant stated that he sent the Notice of Dispute Resolution Proceeding to the Landlord by registered mail on November 29, 2021. The Tenant also stated that he sent his separate evidence package by registered mail on April 21, 2022. The Tenant provided two registered mail tracking numbers to support that he mailed the above noted packages. The Tenant stated he sent these packages both to the Landlord's residence. Pursuant to section 90 of the *Act*, I find the Landlord is deemed to have received these packages on December 4, 2021, and April 26, 2022, respectively.

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.

Preliminary Matters

During the hearing, the Tenant stated that he moved out of the rental unit at the end of June 2021, after receiving a 2 Month Notice to End Tenancy for Landlord's Use (the Notice). The Tenant stated that he was given this Notice by the seller of the house

sometime in the Spring of 2021. The Tenant stated that he does not believe that the purchaser ever moved in, so he should be liable for compensation for not following through with the Notice.

I note the following portions of the Act:

49(5) *A landlord may end a tenancy in respect of a rental unit if*

(a) the landlord enters into an agreement in good faith to sell the rental unit,
(b) all the conditions on which the sale depends have been satisfied, and
(c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:

(i) the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;

(ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

51 (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 the landlord or purchaser, as applicable, does not establish that*

(a) the stated purpose for ending the tenancy was accomplished within a reasonable period after the effective date of the notice, and

(b) the rental unit, except in respect of the purpose specified in section 49 (6)

(a), has been used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

When a Notice is issued under section 49(5), it is typically the purchaser who is liable for any potential compensation on this matter, and is responsible for following through with the ground selected on the Notice, not the seller. If the purchaser has not followed through with the grounds selected on the Notice, then they may be liable for compensation under section 51(2) of the Act. However, compensation under section 51(2) of the Act is only triggered by a valid Notice issued under section 49 of the Act.

The Tenant has not provided a copy of the Notice he asserts he received as part of this application, and it was not included in his evidence. The Notice is important because it

lays out the grounds for ending the tenancy (and the grounds that must be followed through with), the names and addresses of the parties, the timelines, and the respective rights of both parties. This is critical to determining whether or not compensation is due, whether the Tenant has named the correct party as the respondent, and whether the Landlord/purchaser has breached section 51(2) of the Act by not following through with the selected ground. Since the Tenant failed to provide a copy of the Notice, I decline to make any determinations as to whether or not compensation is due.

I hereby dismiss the Tenant's application, with 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 23, 2022

Residential Tenancy Branch