



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

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

- a monetary order of \$15,300.00 for compensation because the landlord ended the tenancy and has not complied with the *Act* or used the rental unit for the stated purpose, pursuant to section 51; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord, the landlord's two agents, "landlord SM" and "landlord KM," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 15 minutes.

This hearing began at 1:30 p.m. with me, the landlord, and the landlord's two agents present. The tenant called in late at 1:34 p.m., claiming that he used the wrong access code to call into the hearing. I informed the tenant that I did not discuss any evidence in his absence with the landlord or his agents. This hearing ended at 1:45 p.m.

The landlord, the landlord's two agents, and the tenant all confirmed their names and spelling. Landlord SM and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

The landlord confirmed that he co-owns the rental unit with his wife, landlord SM. He provided the rental unit address. He stated that both his agents had permission to represent him at this hearing. He identified his son, landlord KM, as the primary

speaker for the landlord at this hearing. He agreed that a copy of this decision could be emailed to landlord SM after the hearing.

Landlord SM confirmed that she co-owns the rental unit with the landlord.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, the landlord, the landlord’s two agents, and the tenant all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both parties. I informed them that I could not provide legal advice to them. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready and wanted to proceed with this hearing.

Landlord KM confirmed receipt of the tenant’s application for dispute resolution hearing package and the tenant confirmed receipt of the landlord’s evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with the tenant’s application and the tenant was duly served with the landlord’s evidence.

Preliminary Issue – Dismissal of Tenant’s Application

At the outset of this hearing, the tenant testified that he filed this application for 12 months’ rent compensation of \$15,300.00, related to a notice to end tenancy for landlord’s use of property.

During this hearing, both parties agreed that the landlord did not provide a 2 Month Notice in the approved RTB form to the tenant.

Sections 49, 51 and 52 of the *Act*, state in part (my emphasis added):

- 49 (2) *Subject to section 51 [tenant's compensation: section 49 notice], a **landlord may end a tenancy** (a) for a purpose referred to in subsection (3), (4), (5) or (6) **by giving notice to end the tenancy** effective on a date that must be (i) not earlier than **2 months** after the date the tenant receives the notice,*

...

(7) A notice under this section must comply with section 52 [form and content of notice to end tenancy].

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

(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.

52 **In order to be effective, a notice to end a tenancy must be in writing and must**

(e) when given by a landlord, be in the approved form.

Both parties provided undisputed, affirmed testimony that the tenant did not receive a 2 Month Notice in the approved RTB form from the landlord.

Accordingly, the tenant's application for a monetary order of \$15,300.00, for 12 months' rent compensation, related to a notice to end tenancy for landlord's use of property, pursuant to section 51 of the *Act*, is dismissed without leave to reapply.

As the tenant was unsuccessful in this application, I find that he is not entitled to recover the \$100.00 filing fee from the landlord. This claim is also dismissed without leave to reapply.

I verbally informed both parties of the above decision and information, during this hearing. Both parties confirmed their understanding of same.

Conclusion

The tenants' entire 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: July 04, 2022

Residential Tenancy Branch