



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

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

- a monetary order for \$12,000 representing 12 times the amount of monthly rent, pursuant to sections 51(2) and 62 of the Act;
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:43 pm in order to enable the tenants to call into the hearing scheduled to start at 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the landlord and I were the only ones who had called into the hearing.

Despite this being the tenants' application, the landlord bears the evidentiary burden to prove the rental unit was used for its stated purpose pursuant to section 51(2) of the Act. As such, despite the tenants not attending, I proceeded with the hearing.

The landlord testified that he served the tenants with copies of his documentary evidence on July 28, 2022 by registered mail. He provided a tracking number confirming this mailing (reproduced on the cover of this decision). I find that the tenants have been served with the landlord's documentary evidence in accordance with the Act.

Issues to be Decided

Are the tenants entitled to:

- 1) a monetary order of \$12,000;
- 2) recover the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The parties entered into a written tenancy agreement starting April 16, 2015. Monthly rent was \$1,025. The tenants paid the landlord a security deposit of \$500. The landlord testified that tenant TZ consented in writing (via text message) to him deducted roughly \$150 for cleaning costs at the end of the tenancy. He returned the balance to the tenants. The tenancy ended on July 31, 2022.

The tenants seek \$12,000 in compensation pursuant to section 51(2) of the Act. In their application, they wrote:

The Respondent advised verbally that he was selling his residence in [redacted], BC and would be moving into the rental property the Applicants were living in. The Respondent never did move into the residence when his property sold and instead, re-rented the property for a higher rate.

At the hearing, the landlord denied telling the tenants that they had to vacate the rental unit. He denied serving the tenants with any eviction notice, or anything in writing, requiring the tenants to vacate the rental unit. As such, he argued that their claim is without merit.

Analysis

Section 51 of the Act, in part, states:

Tenant's compensation: section 49 notice

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.

[...]

(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.

This section only applies to tenants who have received a notice to end tenancy issued pursuant to section 49 of the Act. such a notice must be in writing, and be in the approved form as set out by section 52 of the Act. I accept the landlord's testimony,

which is confirmed by the tenants' comments on its application for dispute resolution, that he did not serve the tenants with any such notice to end tenancy.

Accordingly, the compensation provided for under section 51(2) of the Act is not available to the tenants. They have not received a notice issued pursuant to section 49 of the Act.

Conclusion

I dismiss the tenants' application, in its entirety, 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: August 15, 2022

Residential Tenancy Branch