



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, DRI

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order cancelling a Two Month Notice to End the Tenancy for Landlord's Use ("Two Month Notice"); for an Order for the Landlord to Comply with the Act or tenancy agreement; and to dispute a rent increase from the Landlord.

The Tenants appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Landlords. The teleconference phone line remained open for over 20 minutes and was monitored throughout this time. The only persons to call into the hearing were the Tenants, who indicated that they were ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, were the Tenants.

I explained the hearing process to the Tenants and gave them an opportunity to ask questions about it. During the hearing the Tenants were given the opportunity to provide their evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Landlords did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenants testified that they served each Landlord with the Notice of Hearing documents and the Tenants' evidence by Canada Post registered mail, sent on June 7, 2022. The Tenants provided Canada Post tracking numbers as evidence of service. I checked the Canada Post tracking website and discovered that both packages were delivered on June 9, 2022. Based on the evidence before me, I find that the Landlords were deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Tenants in the absence of the Landlords.

The Tenants provided their email address in the Application and they confirmed it in the hearing. They also confirmed their understanding that the Decision would be emailed to them and mailed to the Landlords, and that any Orders would be sent to the appropriate Party in this manner.

At the outset of the hearing, I advised the Tenants that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Tenants that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Relevancy of Application

The Tenants acknowledged that their Application was now irrelevant, since they moved out of the residential property on July 1, 2022; however, the Tenants wished for me to set out the law in this regard, in order to advise the Landlords as to tenants' rights under the Act.

The Tenants confirmed that the periodic tenancy began on August 1, 2016, with an initial monthly rent of \$950.00, due on the first day of each month. However, the Tenants said that the Landlords tried to raise the rent above the amount allowed pursuant to the legislation.

Tenants' Security Deposit

The Tenants stated that they paid the Landlords a security deposit of \$500.00, and no pet damage deposit. The Tenants said that they moved out of the residential property on July 1, 2022, and that the Landlord failed to return their security deposit to them. The Tenants said that they provided the Landlord with their forwarding address by text a few days after they moved, but that the Landlords did not use this address to return the security deposit.

I advised the Tenants that the Landlords were required to return the Tenants' security deposit to them within 15 days of the later of the end of the tenancy and the Tenants providing their forwarding address to the Landlords in writing. Alternatively, the Landlords could have applied for dispute resolution claiming against the security deposit within the 15 day deadline. The Landlords did neither of these actions within the deadline, and therefore, they are liable for the Tenants for the return of double the security deposit, pursuant to section 38 (6) of the Act.

Tenants' Compensation

Further, the Landlords gave the Tenants an eviction notice pursuant to section 49.2 of the Act, saying that they needed to renovate the rental unit; as such, the Tenants are eligible for compensation pursuant to section 51.4 (4) of the Act. This is true, if the Landlord does not establish that the renovations or repairs have been accomplished within a reasonable period after the effective date of the order.

On initial review of the documents associated with the eviction, it appears that the Landlords failed to comply with section 49.2 of the Act in issuing their notice to end the tenancy. Section 49.2 states that a landlord may apply for dispute resolution requesting an order ending a tenancy and an order granting the landlord possession of the rental unit, if all of the following apply:

- (a) the landlord intends in good faith to renovate or repair the rental unit and has all the necessary permits and approvals required by law to carry out the renovations or repairs;
- (b) the renovations or repairs require the rental unit to be vacant;
- (c) the renovations or repairs are necessary to prolong or sustain the use of the rental unit or the building in which the rental unit is located; and
- (d) the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement.

Further, section 51.4 (4) of the Act states that if in addition to the amount payable under subsection (1), a landlord is liable to pay a tenant an amount equivalent of 12 times the monthly rent, if the landlord does not establish that the renovations or repairs have been accomplished within a reasonable period after the effective date of the order [emphasis added].

I leave this information with the Parties to investigate their rights and obligations further, and with the option of obtaining further guidance from the RTB, if necessary.

Accordingly, I dismiss the Tenants' Application, as it is no longer relevant, since they vacated the residential property on July 1, 2022. Further, **I urge the Landlords** to research their obligations under the Act, as the Tenants' evidence before me indicates that the Landlords are not aware of all of their obligations as landlords.

This Decision is final and binding on the Parties, unless otherwise provided under the

Act, and 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: September 27, 2022

Residential Tenancy Branch