



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Page: 1

DECISION

Dispute Codes MNETC FFT

Introduction

The applicant sought compensation pursuant to section 51(2) of the *Residential Tenancy Act* (the “Act”). In addition, the applicant sought recovery of the application filing fee under section 72 of the Act.

A hearing was held on October 4, 2022 and both parties attended.

Preliminary Issues: (1) Premature Application (2) Named Respondent

The application was made under section 51(2) of the Act, which requires that a period of at least six months elapse from the effective date of a notice to end tenancy (under section 49(5) of the Act) in which a landlord or purchaser does not use the rental unit for the purpose stated in a notice to end tenancy. In this case, the applicant filed their application for dispute resolution on the same date as they vacated the property (and which also happened to be the effective date) which was February 28, 2022. As such, as I explained to the applicant, the application was filed prematurely.

More importantly, however, in reviewing the applicant’s documentary evidence, and in asking him a series of questions, it became clear that if there was any basis for a compensation claim under section 51(2) of the Act, it would almost certainly be against the purchaser(s) of the rental unit. Both the notice to end tenancy (including both an unofficial notice given on November 30, 2021 and the proper #RTB-32 notice given some time later) reference that the tenancy was being ended because the purchasers intended to occupy the rental unit. It is not entirely clear from the evidence, partly because three of the four pages of the notice to end tenancy were not submitted, whether the purchaser intended to occupy the rental unit, but it appears that this was the case. In any event, if the purchaser(s) did not use the rental unit for the purpose as stated in the notice to end tenancy then the applicant’s claim would be against the purchaser, and not the respondent named in this dispute.

For these reasons, and as I explained to the applicant and respondent during the hearing, the applicant's application for dispute resolution is dismissed. However, this dismissal only pertains to the respondent in this dispute, while the applicant is at liberty to file another application for dispute resolution against the purchaser or purchasers.

Before the applicant does so, however, he may wish to carefully review section 51(2) of the Act in order to understand the important elements that must be proven by each party in such a claim for compensation.

As further noted, the applicant is limited to a period of two years after the tenancy ended in which he may bring a further application. That deadline is February 27, 2024.

Conclusion

For the reasons given above, the application is dismissed.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: October 24, 2022

Residential Tenancy Branch