



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

In this application for dispute resolution, the tenant applied on April 17, 2022 seeking:

- compensation from the landlord because the landlord ended the tenancy and has not complied with the Act or used the rental unit for the stated purpose; and
- the filing fee.

Those present were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Neither party raised an issue regarding service of the materials for this hearing.

Issues to be Decided

- 1) Is the tenant entitled to compensation from the landlord?
- 2) Is the tenant entitled to the filing fee?

Background and Evidence

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

The parties agreed on the following particulars regarding the tenancy. The most recent tenancy agreement began February 1, 2021, for a fixed term to end on January 31, 2022; the tenants vacated the rental unit on February 14, 2022; rent was \$2,420.00, due on the first of the month, and the tenants paid a security deposit of \$1,450.00, which the

landlord no longer holds as the tenants did not pay rent for February 1–14, 2022 and wanted the security deposit applied to the rent.

A copy of the tenancy agreement is submitted as evidence. Page 2, section E indicates that at the end of the tenancy the tenants must vacate the rental unit. The required reason the tenants must vacate is indicated as “personal use.”

The tenant testified they are seeking compensation as the landlord included a vacate clause, but did not fulfill their obligation. The reason for the fixed term, “personal use,” was vague, and it was not clear that someone had moved into the unit as required. The tenant testified that October 2021 was the first time the landlord had said they would need the unit due to their parents’ health issues.

The tenant testified that after they vacated, they learned the landlord did not require the rental unit for personal use. The tenant testified that in March 2022 they saw the rental unit being advertised for rent on the Internet.

The landlord testified that their mother, who lived in the upper part of the property, had become ill, and they had thought they might need the rental unit so that a hired nurse would have a place to stay. The landlord testified that as they did not know the course their mother’s illness would take, they were not sure who would be moving into the rental unit. The landlord testified they lived in the unit for a time, as did a “caretaker,” to be available to provide care to their mother at night.

The landlord testified that after their mother was assessed as palliative, and could no longer live in her home, they had to rent the unit. The landlord testified that their parents were in dire financial straits due to the high cost of the mortgage, a funeral, and medication.

The tenant disputed the landlord’s claims that the landlord had moved into the rental unit and that the landlord’s family were under financial pressure.

Analysis

Section 51.1 states that if a fixed term tenancy agreement includes a requirement that the tenant vacate the rental unit at the end of the term, the landlord must pay the tenant 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 date the tenancy ended, to satisfy the prescribed circumstance, or
- (b) the rental unit is not used in a way that satisfies the prescribed circumstance for at least the period of time prescribed under section 97 (2) (a.2), beginning within a reasonable period after the date the tenancy ended.

The tenant is of the position they are owed compensation as the landlord ended the tenancy and has not complied with the Act or used the rental unit for the stated purpose.

The Transition section of [Policy Guideline](#) 50. *Compensation for Ending a Tenancy* states that Section 51.1 was brought into force by regulation on July 11, 2022, and that Section 51.1 can apply in circumstances where a fixed term tenancy agreement was entered into before section 51.1 was brought into force and the fixed term tenancy agreement has not yet ended. The Guideline states that Section 51.1 does not apply in circumstances where the fixed term tenancy agreement had ended before the section was brought into force.

As the parties agree that the fixed term tenancy ended on January 31, 2022, and the tenant vacated on February 14, 2022, I find the tenant is not entitled to compensation under section 51.1 of the Act, as the tenancy had ended before section 51.1 was brought into force on July 11, 2022.

As the tenant is unsuccessful in his application, I decline to award the filing fee.

Conclusion

The tenant's application is dismissed.

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: December 12, 2022

Residential Tenancy Branch