



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 an Application for Dispute Resolution by the Tenants filed under the *Residential Tenancy Act* (the “*Act*”) for a monetary order for money owed or compensation for damage or loss, and the recovery of their filing fee paid for this application. The matter was set for a conference call.

The Landlord and their Agent (the “Landlord”) and both the Tenants attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Are the Tenants entitled to a monetary order for money owed or compensation for damage or loss pursuant to section 51 of the *Act*?
- Are the Tenants entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recorded that this tenancy began on July 1, 2019, that rent in the amount of \$2,000.00 was to be paid by the first day of each month, and at the outset of the tenancy, the Tenants had paid a \$1,000.00 security deposit to the Landlord. The Tenants submitted a copy of the tenancy agreement into documentary evidence.

The Landlord testified that they served a Two-Month Notice to End Tenancy for the Landlord's Use of the Property (the "Notice") dated August 2, 2021. The Notice indicated that the Tenants were required to vacate the rental unit as of November 1, 2021. The reason checked off by the Landlord within the Notice was as follows:

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse, or child; or the parent, or child of that individual's spouse)
 - Please indicate which close family member will occupy the unit
 - The child of the landlord or landlord's spouse

The Landlord testified that the Tenants moved out of the rental unit, in accordance with the Notice as of November 1, 2021, and the Tenants agreed that the Landlord returned the security to the Tenants in accordance with the *Act*. The Tenants submitted a copy of the Notice into documentary evidence.

The Landlord testified that their son did move into the rental unit as of January 3, 2022, but that there were a lot of arguments, so their son moved out on January 5, 2022. The Landlord confirmed that the rental unit was only occupied for the stated purpose for two days.

The Landlord testified that when their son moved out of the rental unit the decision was made to sell the rental unit. The Landlord testified that the rental unit was sold in February 2022.

Analysis

I have carefully reviewed the testimony and evidence, and on a balance of probabilities, I find as follows:

Before me, I have an application pursuant to section 51(2) of the *Act*, which states the following:

Tenant's compensation: section 49 notice

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 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.*

I accept the Landlord's testimony that the Landlord's son did move into the rental two months after this tenancy ended on January 3, 2022, which I find to have been a reasonable period after the effective date of the notice to have started using the rental unit for the stated purpose for ending the tenancy.

However, I also accept the Landlord's testimony that the Landlord's son stayed in the rental unit for only two days, moving out on January 5, 2022. I find this to have been a breach of section 51(2b) of the *Act*, which required the Landlord to use the property for the stated purpose on the Notice for at least 6 months.

Therefore, pursuant to section 51 of the *Act*, I find that the Tenants have successfully proven they are entitled to compensation due to the Landlord's breach of the *Act*. I award the Tenants compensation in the amount of **\$24,000.00**, consisting of the equivalent of 12 times the monthly rent payable under the tenancy agreement.

Additionally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenants have been successful in their application, I find that the Tenants are entitled to recover the \$100.00 filing fee paid for this application.

I grant the Tenants a monetary order in the amount of \$24,100.00, consisting of \$24,000.00 in compensation and \$100.00 in the recovery of the filing fee paid for these proceedings.

Conclusion

I grant the Tenants a Monetary Order in the amount of \$24,100.00. The Tenants are provided with this Order in the above terms, and the Landlord must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: January 19, 2023

Residential Tenancy Branch