



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, FFT

Introduction

On June 7, 2022, the Tenants applied for dispute resolution under the *Residential Tenancy Act* (“the Act”) seeking compensation for money owed or damage or loss under the Act, Regulation, or tenancy agreement.

The matter was scheduled as a teleconference hearing. The Tenants and the Landlord’s agents were present at the hearing. At the start of the hearing, I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during 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.

Preliminary and Procedural Matters

The Tenants provided testimony on when their tenancies started. The tenancy for Ms. H.Y began on April 1, 2021 to rent a room in the self contained basement unit at a monthly rent of \$500.00 per month. The Landlord did not prepare a written tenancy agreement. The tenancy for Ms. C.T. began on December 30, 2021, to rent a room in the self-contained basement unit at a monthly rent of \$650.00 per month. The Landlord did not prepare a written tenancy agreement.

Both Tenants stated that they personally paid their respective monthly rent to the Landlord in person. The Landlord lived upstairs at the rental property and the Landlord and Tenants did not share a kitchen or bathroom.

I find that the Tenants have separate tenancy agreements with the Landlord. The Tenants are not under the same tenancy agreement and have separate rights and responsibilities and are not jointly liable for any breaches on the other's part. They are Tenants in common.

Despite being under the separate tenancy agreements, the Tenants have applied for compensation as co-tenants. Normally, one tenant in common would have to withdraw from the claim with leave to reapply; however, for the reasons provided later in this decision, I am not separating the claimants.

Issues to be Decided

- Are the Tenants entitled to money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement.?

Background and Evidence

The Tenants testified that the Landlord wanted to rent out the third bedroom at the rental unit and asked the Tenants if they wanted to enter into a tenancy arrangement to rent all three rooms for \$1,800.00 per month. The Tenants did not agree with the Landlord's request. The Tenants testified that the Landlord asked them to move out of the unit. They stated that they did not know the law so they both moved out on May 31, 2022. The Tenants stated that in June 2022, the Landlord re-rented the unit to new tenants after they had moved out.

The Tenants testified that they never received a proper notice to end tenancy from the Landlord.

The Tenants are seeking compensation of 12 months rent payable under their tenancy agreements because the Landlord did not achieve the stated purpose for ending the tenancy within a reasonable period of time. The Tenants also seek an extra month of rent to pay for their moving costs.

In reply, the Landlord's agent confirmed that the Landlord never served the Tenants with a notice to end tenancy. She stated that the Tenants did not want to rent the whole basement so the Landlord verbally asked the Tenants to move out and they did.

Analysis

Section 44 of the Act provides that A tenancy ends only if one or more of the following applies:

- (a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:
 - (i) section 45 [*tenant's notice*];
 - (i.1) section 45.1 [*tenant's notice: family violence or long-term care*];
 - (ii) section 46 [*landlord's notice: non-payment of rent*];
 - (iii) section 47 [*landlord's notice: cause*];
 - (iv) section 48 [*landlord's notice: end of employment*];
 - (v) section 49 [*landlord's notice: landlord's use of property*];
 - (vi) section 49.1 [*landlord's notice: tenant ceases to qualify*];
 - (vii) section 50 [*tenant may end tenancy early*];
- (b) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 97 (2) (a.1), requires the tenant to vacate the rental unit at the end of the term;
- (c) the landlord and tenant agree in writing to end the tenancy;
- (d) the tenant vacates or abandons the rental unit;
- (e) the tenancy agreement is frustrated;
- (f) the director orders that the tenancy is ended;
- (g) the tenancy agreement is a sublease agreement.

Section 51(1) of the Act provides that 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.

Based on all the above, the evidence and testimony of the Tenants and Landlord, and on a balance of probabilities, I find as follows:

I find that the tenancy did not end based on service of a notice to end tenancy. The Tenants had no legal obligation to move out of the rental unit based on the verbal request or a note sent by the Landlord. While the Tenants stated that they did not know the law; parties are expected to understand their rights and responsibilities under the Act. I find that the tenancy ended on May 31, 2022, in accordance with section 44(d) of the Act when the Tenants vacated the rental unit.

Compensation under section 51 of the Act stems from service of a Two Month Notice to End Tenancy for Landlords Use of Property to a Tenant. Since I have found that the tenancy did not end based on service of a proper notice to end tenancy, I find that the Landlord had no restrictions on what she could do with the rental unit and is not required to pay any compensation to the Tenants for how the tenancy ended or for how it was used afterwards.

The Tenants' request for compensation of \$14,950.00 is dismissed without leave to reapply.

Moving Costs

I find that the tenancy ended on May 31, 2022 in accordance with section 44(d) when the Tenants vacated the rental unit.

The Tenants' request for additional compensation of one month rent for moving costs is dismissed.

Filing fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants were not successful with their application, I decline to order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

Conclusion

I find that the tenancy ended on May 31, 2022, in accordance with section 44(d) when the Tenants vacated the rental unit.

I find that the tenancy did not end based on service of a proper notice to end tenancy, I find that the Landlord is not required to pay any compensation to the Tenants for how the tenancy ended or how the unit was used after they vacated.

The Tenants' request for compensation of \$14,950.00 is dismissed 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: February 21, 2023

Residential Tenancy Branch