



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

MNETC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the *Residential Tenancy Act* (the “Act”) for compensation because the landlord ended the tenancy and has not complied with the Act, or used the rental unit for the stated purpose, and to recover the cost of the filing fee.

Only the tenants appeared.

As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on June 23, 2022, a Canada post tracking number was provided as evidence of service, which shows the package was successfully delivered to the landlord on June 28, 2022. I find the landlord was served on June 28, 2022 in accordance with the Act.

The tenants submit that all evidence was given to the landlord with the most recent package was sent of February 8, 2023 and deliver to the landlord on February 9, 2023. a Canada post tracking number was provided as evidence of service, which shows the package was successfully delivered to the landlord on February 9, 2023. I find the landlord was served on February 9, 2023, with support evidence.

Issue to be Decided

Are the tenant entitled to compensation under section 51(2) of the Act?

Background and Evidence

The tenancy began on June 1, 2016. Rent in the amount of \$3,000.00 was payable on the first of each month. The tenants stated that at a prior hearing the monthly rent had been reduced to \$2,700.00.

The tenant testified that they moved out of the rental unit on or about July 15, 2020, after receiving a Two Month Notice to End Tenancy for Landlord's Use of Property, (the "Notice") dated June 30, 2020, from the Landlord. The tenants filed in evidence a copy of the Notice.

The reason for ending the tenancy within the Notice is:

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).

The tenant testified that the landlord never had any intention of living in the rental unit as they had built a new home on the property. The tenant stated that they were told by neighbours that the landlord had rented the property out at a higher rent. Filed in evidence is a statement from a neighbour.

Analysis

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

In this case, the onus is on the landlord to prove that they took reasonable steps to accomplish the stated purpose within the Notice or prove they had extenuating circumstance that prevented them from doing so.

Although the landlord was served with the tenants' application in accordance with the Act and has failed to attend the hearing to provide any testimony or supporting documents evidence, I accept the evidence of the tenant was that the landlord did not use the rental unit for the stated purpose because the landlord had moved into their newly built house on the same property and re-rent the rental unit.

I find the landlord has failed to prove they accomplished the stated purpose within the Notice. The landlord has also failed to prove that they had an extenuating circumstance.

I find the landlord must pay the tenants the amount equal to 12 months' rent payable under the tenancy agreement. Therefore, I grant the tenants' a monetary order in the amount of **\$32,400.00. (\$2,700 x12=\$32,400)**

This order may be filed in Provincial Court and enforced as an order of that court. The landlord is cautioned that costs of such enforcement are recoverable from the landlord.

In note that the tenant was claiming \$30,000.00 for compensation in their application; however, this was a calculation error. I am required by the Act regardless of this error to compensation the tenants in the correct amount.

Conclusion

The tenants are granted a monetary order that is equal to 12 times the monthly rent.

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 27, 2023

Residential Tenancy Branch