



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 tenant filed under the *Residential Tenancy Act* (the “Act”) for a monetary compensation because the landlord ended the tenancy contrary to the Act, for the return of the security deposit and the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

In this case the tenant has named JR and KO as a respondent landlord. However, the tenant ZB was under a subtenancy agreement with JR. JR had the permission of KO to sublease the rental unit to ZB. KO is the landlord of the tenant JR, not the landlord of AB, I find KO has no obligation to the subtenant. Therefore, I have removed KO from the style of cause.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation under the Act?

Is the tenant entitled to the return of the security deposit?

Background and Evidence

In this matter the tenant JR had the authorization of the landlord to sublet the rental unit under a fixed term agreement. JR became the landlord when they entered into an agreement to sublease their tenancy agreement to ZB. The fixed term agreement was

from May 1, 2022 until April 30, 2023. Rent in the amount of \$1,000.00 was payable on the first of each month. A security deposit of \$500.00 was paid by the tenant.

The tenant testified that they were forced to vacate the rental unit on May 17, 2022, because the landlord told them had to move out because someone else was moving into the premises. The tenant stated that it was unfair that the landlord gave them 24 hours to vacate. The tenant stated that they are seeking to recover the prorated rent they paid to the landlord, the return of the security deposit and the cost they had to pay to stay in a hotel and the cost was \$1,020.60 (\$881.60 + 139.00).

The landlord testified that the tenant was give the premises based on employment. The landlord stated that this agreement was not signed on a residential tenancy agreement thorough the residential tenancy branch and the condition of renting the property is being an employee of the company.

The landlord stated that the tenant was fired and given 24 hours to vacate. The landlord stated they send the tenant and etransfer in the amount of \$800.00 for the return of their security deposit (\$500) and (\$300) for prorated rent; however, that was not accepted by the tenant.

Analysis

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

Section 4 of the Act defines what the Act does not apply to. The Act does not exempt living accommodation that are rent by the tenant for employment purpose. Section 5 of the Act states a landlords and tenants may not avoid to contract, out of this Act any attempt to avoid or contract out of this Act has no effect.

Although I accept the tenancy agreement is not on standard residential tenancy agreement created by the Residential Tenancy Branch that does not mean a tenancy under the Act has not been created. This agreement was a fixed term sublease agreement. This gave the tenant exclusive rights as a tenant to the premises. I find the Act does apply.

I find there is no provision in the Act that allow the landlord to evict a tenant with 24 hours notice. This was a fixed term tenancy agreement under a sublease agreement and even if the employment for the tenant ended, this does not mean the tenancy

automatically ended and on such short notice. A tenancy can only end under Part 4 of the Act.

The tenant vacated the rental unit on May 17, 2022, after being evicted by the landlord. Although they had paid rent for the entire month of May 2022. I find the tenant is entitled to recover daily prorated rent of \$32.25 for the time period they were not living in the rental unit this equals 15 days ($\$1,000 \div 31 = \$32.25 \times 15 = \$483.87$). Therefore, I find the tenant is entitled to recover **\$483.87**.

The tenancy is over, and the landlord did send the tenant an e-transfer in the amount of \$800.00, which was in part for the return of the security deposit. The tenant did not accept the amount as they did not agree with the amount being sent, which I find reasonable as the landlord was shortchanging the daily rent owed to the tenant. I find the tenant is entitled to the return of the security deposit in the amount of **\$500.00**.

In this case, the landlord ended the tenancy giving the tenant 24 hours notice, I find the landlord breached the Act and the landlord's action immediately put the tenant in a position of homelessness. The tenant had to seek living in a hotel for a short duration due to the actions of the landlord. I find the cost the tenant incurred was reasonable and supported by receipts. Therefore, I find the tenant is entitled to recover \$881.60 and \$139.00 for hotel cost in the total amount of **\$1,020.60**.

I find that the tenant has established a total monetary claim of **\$2,104.47** comprised of the above described amounts and the \$100.00 fee paid for this application. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **landlord is cautioned** that costs of such enforcement are recoverable from the landlord.

Conclusion

The tenant is granted a monetary order for the above amounts.

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 1, 2023