



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNECT FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the respondent pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. Both parties confirmed that they understood.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing. In accordance with section 89 of the *Act*, I find that the landlord duly served with the tenant's application. As all parties confirmed receipt of each other's evidentiary materials, I find that these were duly served in accordance with section 88 of the *Act*.

Issues(s) to be Decided

Is the tenant entitled to a monetary order for compensation under the *Act*, regulation, or tenancy agreement?

Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on August 1, 2006, and ended on June 30, 2022 after the tenant was served with a 4 Month Notice to End Tenancy for Demolition. Monthly rent was set at \$1,850.00, payable on the first of the month. The tenant was returned their security deposit of \$850.00 at the end of the tenancy.

The tenant filed this application for compensation as they do not feel that the landlord fulfilled their obligations to demolish the home. The tenant states that they had noticed that “nothing has happened at this property”. The tenant states that they had contacted the city about whether a permit had been obtained by the landlord. The tenant submitted a copy of the letter in evidence, dated September 1, 2022. The letter states that they did receive an application for a demolition permit on July 5, 2021, but that no permit has been issued.

The tenant also states that they never received pages 3 and 4 of the 4 Month Notice from the landlord.

The landlord responded that they had allowed the tenant’s son to move into the home for the first two weeks of July at no cost as this was requested by the tenant. The landlord also responded that they believe that the tenant was served with pages 3 and 4 of the 4 Month Notice.

The landlord responded that the person who responded to the tenant about the permit was a privacy commissioner, and does not work for the building department. The landlord submitted a letter from the city dated February 3, 2022 in response to an application for demolition for the home located at the rental address. The letter stated that the existing building may be demolished, subject to some conditions.

The landlord stated that they had already applied for the demolition permit, but that it was a slow process, and that the February 3, 2022 letter was the approval to proceed with the demolition process. The landlord stated that the actual demolition permit could not be obtained until the home was vacant. The landlord argued that they had met all

the requirements before serving the tenant with the 4 Month Notice, and that submits that following the vacant possession of the home, they had started the demolition process. The landlord testified that the demolition process was a long one, which first included the removal of hazardous materials. The landlord believes that the tenant had observed what was the exterior of the home, although the home was already gutted. The landlord testified at the time of the hearing, the home was now completely gone.

In addition to the February 3, 2022 letter, the landlord submitted copies of a Public Works Application dated August 2, 2022, which shows that sanitary and water severance was approved and paid for, an Invoice dated August 2, 2022 from the city, an invoice dated January 5, 2023 for work including asbestos removal, as well as photographs of the home.

Analysis

Sections 51(2) and 51(3) of the *Act* state that:

(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.

(3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as applicable, from

- (a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, and
- (b) using the rental unit, except in respect of the purpose specified in section 49 (6) (a), for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

In this case, the landlord had ended the tenancy pursuant to section 49(6)(a), in order to demolish the rental unit. Although the tenant is upset that they did not receive pages 3 and 4 of the 4 Month Notice, the landlord testified that they believe they did serve these pages on the tenant. I am not satisfied that the evidence shows that the tenant was not properly served with all pages of the 4 Month Notice. Regardless, the tenant did not dispute the 4 Month Notice. As the tenant had already accepted the 4 Month Notice and moved out, the 4 Month Notice can no longer be disputed and cancelled.

I will now consider whether the tenant is entitled to compensation pursuant to section 51(2) of the Act.

As stated in Residential Policy Guideline #50:

C. ADDITIONAL COMPENSATION FOR ENDING TENANCY FOR LANDLORD'S USE OR FOR RENOVATIONS AND REPAIRS

A tenant may apply for an order for compensation under section 51(2) of the RTA if a landlord who ended their tenancy under section 49 of the RTA has not:

- accomplished the stated purpose for ending the tenancy within a reasonable period after the effective date of the notice to end tenancy, or
- used the rental unit for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice (except for demolition).

In this case, I find that the landlord had provided sufficient evidence to support that they had fulfilled their obligations to demolish the home after ending the tenancy pursuant to section 49(6)(a) of the Act. I find that the evidence supports that the demolition process is not a quick one, and that the landlord did start and accomplish the demolition within a reasonable period after the effective date of the 4 Month Notice. Accordingly, I dismiss the tenant's application for compensation without leave to reapply.

As the tenant was unsuccessful with their application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application. The tenant must bear the cost of this filing fee.

Conclusion

I dismiss the tenant's application 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: April 19, 2023

Residential Tenancy Branch