



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

The Applicant seeks the following relief under the *Residential Tenancy Act* (the “*Act*”):

- an order pursuant to s. 51(2) for compensation equivalent to 12 times the monthly rent payable under the tenancy agreement; and
- return of the filing fee pursuant to s. 72.

O.L. appeared as the Applicant. A.C. and J.C. appeared as agents for the Respondent.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other’s application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other’s application materials.

Issues to be Decided

- 1) Is the Applicant entitled to compensation equivalent to 12 times the monthly rent payable under the tenancy agreement?
- 2) Is the Applicant entitled to her filing fee?

Evidence and Analysis

The parties were given an opportunity to present evidence and make submissions. I have reviewed all included written and oral evidence provided to me by the parties and I have considered all applicable sections of the *Act*. However, only the evidence and issues relevant to the claims in dispute will be referenced in this decision.

The Applicant confirmed the following details with respect to her former tenancy:

- The tenancy began on September 1, 2020 and ended on April 28, 2022 when she moved out.
- Rent of \$1,400.00 was due on the first of each month.

I am provided with a copy of the tenancy agreement by the Applicant.

The Applicant's evidence includes a copy of a Two-Month Notice to End Tenancy signed on February 24, 2022 (the "Two-Month Notice") which indicates it was issued on the basis that the conditions of a sale have been satisfied and the buyer has requested vacant possession. The Two-Month Notice lists the Respondent as the purchaser. The Applicant's evidence also includes a copy of a Buyer's Notice for Vacant Possession signed on February 23, 2022 (the "Buyer's Notice") in which vacant possession is requested for April 28, 2022. The effective date of the Two-Month Notice is listed as April 28, 2022.

Pursuant to s. 51(2) of the *Act*, a tenant may be entitled to compensation equivalent to 12 times the monthly rent payable under the tenancy agreement when a notice to end tenancy has been issued under s. 49 and the landlord or the purchaser who asked the landlord to issue the notice, as applicable under the circumstances, does not establish:

- that the purpose stated within the notice was accomplished in a reasonable time after the effective date of the notice; and
- has been used for the stated purpose for at least 6 months.

There is no dispute that the Tenant was served with the Two-Month Notice, which was issued under s. 49 of the *Act*, and vacated the rental unit after receiving it. The Respondent's agents confirm the Respondent purchased the property in question but say that it was sold to another company shortly after the sale completed on April 28, 2022. The agents could not confirm when it was resold by the Respondent. The Respondent's agents do, however, confirm no one ever occupied the rental unit prior to its resale.

The Respondent's agents argued that the Applicant named the wrong party in this matter. I find that the Tenant did not. The Buyer's Notice is clearly made at the request of the Respondent. The Two-Month Notice clearly lists the Respondent as the purchaser. There is no doubt that the Tenant was served with the Two-Month Notice and vacated the rental unit after receiving it. Once the Two-Month Notice was served, unless it was withdrawn, the Respondent, as the purchaser, was bound to comply with the purpose of the notice. They could not later sell the property. There is no dispute here that rental unit was never occupied by a shareholder of the Respondent or their close family member.

The Respondent's agents argue that the Buyer's Notice was signed by the realtor without the Respondent's authorization. That may be the case. Frankly, it is not relevant to these proceedings. From the Applicant's perspective, she received the Two-Month Notice at the Respondent's request. If the realtor acted contrary to authority of the Respondent, that is not the Applicant's problem and would only be relevant in a claim brought by the Respondent against the realtor. In any event, such a claim by the Respondent is outside the jurisdiction of the Residential Tenancy Branch.

I find that the Respondent has failed to establish that the purpose of the Two-Month Notice has been fulfilled. Indeed, the agents admit that it was not. Accordingly, I find that the Applicant is entitled to compensation under s. 51(2) of the *Act* totalling \$16,800.00 (\$1,400.00 x 12).

As the Applicant was successful, I also grant her the filing fee of \$100.00, which shall be paid by the Respondent.

Conclusion

The Respondent has failed to establish that the purpose of the Two-Month Notice was fulfilled. I grant the Tenant her relief under s. 51(2) of the *Act* and order the Respondent pay her \$16,800.00 in compensation.

I order pursuant to s. 72(1) of the *Act* that the Respondent pay the Applicant's \$100.00 filing fee.

In total, I order that the Respondent pay **\$16,900.00** to the Applicant (\$16,800.00 + \$100.00).

It is the Applicant's responsibility to serve this order on the Respondent. If the Respondent does not comply with the monetary order, it may be filed by the Applicant with 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: May 04, 2023

Residential Tenancy Branch