



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

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

:

- a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions. The parties confirmed that they had exchanged their documentary evidence.

Preliminary Issue- Notice to End Tenancy

At the outset of the hearing both parties advised that the landlord sent a text message on March 16, 2022 asking when the tenant would be moving out as they wished to use the room for their own purposes. There was further correspondence by text message and the tenant advised the landlord by text message that he would be moving out on July 1, 2022. Both parties gave testimony that the text message inquiring from the landlord requesting the tenant move out was the only notice ever given.

Analysis

Section 51(1) of the Act requires that a landlord, **who gives a notice under section 49, including the form of notice that is the subject of this application**, must pay the

tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (2) In addition to the amount payable under subsection (1), if
 - (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or
 - (b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of twelve times the monthly rent payable under the tenancy agreement.

I asked each party several times if the text message was the only contact made by the landlord about ending the tenancy. Both parties confirmed that a text message request was made by the landlord asking the tenant to end the tenancy and move out, but no specific date was discussed until the tenant gave the landlord notice that he would move out on July 1, 2022. MG asked if one months rent as compensation is available to the tenant, however, as with the 12 months of compensation, a notice to end tenancy by the landlord must be in accordance with section 52 for compensation to be considered as noted below:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.**

Both parties confirmed that a notice to end tenancy in the approved form was not issued by the landlord. As a result of there not being an actual notice to end tenancy but only a text message request, the tenant is not entitled to any compensation. Understandably, the tenant and his advocate were upset with me when this was explained to them.

However, I explained the relevant sections of the Act and explained that an Arbitrator cannot award compensation under these circumstances as there was no appropriate and required notice to end tenancy in accordance with the Act. It was further explained that that the parties essentially came to a “mutual agreement” to end tenancy. Although that did not alleviate the disappointment of the tenant and his advocate, the tenant indicated that he understood.

Conclusion

The tenant’s application is dismissed in its entirety 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: June 15, 2023

Residential Tenancy Branch