



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s April 4, 2023, application to the Residential Tenancy Branch for:

- (i) twelve months compensation because the tenancy was ended as a result of a Two Month Notice to End Tenancy, and the landlord has not used the rental unit for the stated purpose under section 51 of the Act; and
- (ii) authorization to recover the cost of the filing fee under section 72 of the Act.

Issues

- 1. Is the tenant entitled to compensation?
- 2. Is the tenant entitled to recover the cost of the filing fee?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began February 1, 2021, and ended on October 15, 2022. Rent was \$1,300.00 due on the first day of the month.

The landlord affirmed that the landlord never served a Two Month Notice to End Tenancy for Landlord's Use of Property on the tenant.

The tenant affirmed that:

- the tenant left the rental unit as the landlord had informed the tenant that the rental unit was being renovated.
- the tenant never received a Two Month Notice to End Tenancy for Landlord's Use of Property.

Analysis

Section 51(2) of the Act states that, if a tenant is given a notice to end tenancy under section 49 of the Act [*landlord's use of property*], a landlord or purchaser if applicable, must pay the tenant an amount that is equal to 12 times the monthly rent if:

- steps have not been taken within a reasonable period after the effective date of the notice to accomplish the stated purpose for ending the tenancy; or
- the rental unit is not used for that stated purpose for at least six months' duration.

I note that section 51(2) of the Act requires a tenant to have received a notice to end tenancy under section 49 of the Act [*landlord's use of property*] in order to be eligible for compensation under this section. As both parties acknowledge that the landlord never served a Two Month Notice to End Tenancy for Landlord's Use of Property on the tenant, I find that the tenant has not established the tenant's claim for compensation. Therefore, I am dismissing the tenant's application for twelve months compensation under section 51 of the Act.

As the tenant was not successful in its application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

The application is dismissed 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 28, 2023

Residential Tenancy Branch