



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking monetary compensation from the landlord for the landlord's failure to accomplish the stated purpose for ending the tenancy with a Two Month Notice to End Tenancy For Landlord's Use of Property, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other.

The parties agree that all evidence has been exchanged, and the evidence and testimony I find relevant to the application is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the landlord has accomplished the stated purpose for ending the tenancy with a Two Month Notice to End Tenancy For Landlord's Use of Property?
- Should the tenant recover the filing fee from the landlord?

Background and Evidence

The landlord testified that this month-to-month tenancy began on March 1, 2022 and ended on May 31, 2024. Rent in the amount of \$1,285.00 was payable on the 1st day of each month, which was increased to about \$1,335.00, or close to \$1,350.00 per month effective in January, 2024, and there are no rental arrears. On February 9, 2022 the landlord collected a security deposit from the tenant in the amount of \$642.50, all of which was returned to the tenant, and no pet damage deposit was collected. The rental

unit is a basement suite, and the landlord resided in the upper level of the home. A copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that the landlord served the tenant with a Two Month Notice to End Tenancy For Landlord's Use of Property (the Notice) by putting it on the tenant's door. A copy of the Notice has been provided for this hearing, and it is dated March 26, 2024 and contains an effective date of vacancy of May 31, 2024. No reasons are selected on the form for ending the tenancy.

The tenant was in Cuba, and the landlord sent an email to the tenant saying that the Notice was given in error, and the tenant could stay. It was an honest mistake, and the tenant said to go ahead and evict, then said that the tenant could stay until the house sold. Copies of emails have been provided for this hearing.

When the tenant returned from Cuba, the landlord apologized and said the tenant could stay. However, the tenant said very angrily that only the tenant could cancel the Notice.

There was no malicious intent by the landlord and there was no ulterior motive. In the tenant's last email questioning the landlord about compensation, the tenant also asked if it was a notice to end the tenancy, knowing she wasn't evicted.

No rent was paid for the month of May, 2024 and the landlord gave the tenant a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities. The tenant claimed that it was compensation for ending the tenancy.

The landlord sold the house in August, 2024, but did not re-rent the rental unit.

The tenant testified that rent at the end of the tenancy was \$1,330.00 effective January 1, 2024.

After returning from Cuba on April 2, 2024 the tenant contacted the Residential Tenancy Branch and learned that the landlord cannot retract the Notice. The tenant signed another lease for another unit in mid-April, 2024 and moved out on May 31, 2024. The tenant also learned that the tenant didn't have to stay, and the tenant didn't agree to anything. The tenant did not dispute the Notice.

The tenant does not believe it was an accident, but the landlord gave the Notice maliciously, printing the incorrect form and driving to the house. The landlord hadn't lived at the rental property since October, 2023. The landlord said he or a family member was going to live there, and would have noticed it was not the correct form, but wanted the tenant to leave. The tenant was intimidated and bullied by the landlord and the new tenants in the upper level.

Analysis

Where a tenant makes an application for compensation for the landlord's failure to comply with the *Act* or accomplish the stated purpose for ending the tenancy within a reasonable time after the effective date of the Notice, the onus is on the landlord to establish that the reason for ending the tenancy was accomplished.

In this case, there are no reasons selected for ending the tenancy. I have reviewed all of the emails, and it is clear that the landlord realized that an error was made, however putting the stated purpose in an email does not qualify as a valid reason for ending the tenancy. I disagree with the tenant that only the tenant can cancel the Notice; both parties must agree to cancel it, not just the tenant. I accept that the tenant didn't want to continue residing in the rental unit, and the tenant was not required to dispute the Notice, however if the tenant had disputed the Notice, it would have been cancelled at arbitration.

Since there are no reasons in the Notice for ending the tenancy, there is no evidence that the landlord failed to accomplish the stated purpose, and I dismiss the tenant's application.

Since the tenant has not been successful, the tenant is not entitled to recover the filing fee from the landlord.

Conclusion

For the reasons set out above, the tenant's application is hereby 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: October 03, 2024

Residential Tenancy Branch