



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for a monetary order for compensation and the filing fee.

Both parties appeared and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be Decided

Is the tenant entitled to compensation? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on November 01, 2013 for a fixed term of one year. At the end of the term, the term was renewed for another year with an end date of October 31, 2015. The monthly rent was \$1,450.00 due on the first of each month.

The tenant testified that starting in March 2015, the landlord informed her by email of his intentions to sell the rental unit. He suggested that the tenant look for a place to move to.

The landlord stated that the tenant expressed interest in purchasing the rental property. The tenant sent an email to the landlord suggesting that the landlord consider a “rent to own” proposition. The parties discussed the possibility but it did not pan out.

The tenant stated that the landlord sent her multiple emails discussing the end of tenancy, in the event a buyer was found.

On May 02, 2015, a neighbor indicated to the landlord that he would be interested in purchasing the property. The tenant agreed to a showing on May 13, 2015. The potential buyer did not show further interest after the viewing.

The tenant stated that because she has a large family and because of the low vacancy rates in the area, she was anxious about being able to find suitable accommodation and therefore she started looking for a place. The tenant stated that she was successful in finding one on May 10, 2015. The tenant moved out on May 31, 2015.

The tenant agreed that the landlord did not serve her with a notice to end tenancy and that the only indication that the landlord provided of his intentions to sell the unit, was by email.

The tenant is claiming the return of rent for the last month of tenancy and also for the remainder of the term which would end on October 31, 2015, for a total amount of 8,700.00.

Analysis

Section 49 of the *Residential Tenancy Act* deals with a landlord's notice to end tenancy for landlord's use of property. Section 49 (5) states:

5) A landlord may end a tenancy in respect of a rental unit if

- (a) the landlord enters into an agreement in good faith to sell the rental unit,
- (b) all the conditions on which the sale depends have been satisfied, and
- (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:
 - (i) the purchaser is an individual and the purchaser, or a close family member, intends in good faith to occupy the rental unit;
 - (ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

Section 49(7) of the *Residential Tenancy Act* states that a notice under this section (49) must comply with section 52 [*form and content of notice to end tenancy*].

Section 52 of the *Residential Tenancy Act* states:

- 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, and
 - (e) when given by a landlord, be in the approved form.

Pursuant to section 51 (1) of the *Residential Tenancy Act*, a tenant who receives a notice under section 49 (*Landlord's use of property*) is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

In this case, I find that the tenant did not receive a valid notice to end tenancy for landlord's use of property that complied with Section 52 of the *Residential Tenancy Act*. Based on the testimony of both parties and the documents filed into evidence, I find that the tenant did not receive a section 49 notice and accordingly is not entitled to compensation pursuant to section 51, in the amount of one month's rent of \$1,450.00.

The tenant moved out by choice. There is no section in the *Act* that allows me to award the tenant rent for the balance of a fixed term when the tenant breaches the term of the contract. Since the tenant has not proven her case, she must bear the cost of filing her own application.

Conclusion

The tenant's application is dismissed in its entirety.

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: December 08, 2015

Residential Tenancy Branch

