



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenants served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on November 6, 2017. No documentary evidence was submitted by the landlord. As such, I find based upon the undisputed evidence of both parties that each has been properly served as per section 88 and 89 of the Act with the notice of hearing package and the submitted documentary evidence.

Preliminary Issue(s)

At the outset, it was clarified with both parties that the tenants had incorrectly named the landlord as W.T.J. when in fact it should be T.J.W. Both parties consented to the amendment to change the named landlord.

During the hearing the tenants also cancelled the second portion of their monetary claim of \$1,800.00 and wished to only proceed on the \$3,600.00 portion.

At the end of the hearing the tenants stated that they were in the process of moving and have provided a new mailing address. As such, the Residential Tenancy Branch File shall be updated.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenants seek an amended monetary claim of \$3,600.00 which consists of:

\$3,600.00 Compensation, 2 Months' Rent, Fail to Comply with 2 Month Notice

The tenants stated that the landlord failed to act in good faith by moving into home. Both parties confirmed that the landlord served the tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) dated July 2, 2017. Both parties agreed that the 2 Month Notice sets out an effective end of tenancy date of September 30, 2017 and the reason selected on the notice was:

The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).

The tenants claim that the landlord failed to move into the premises in good faith as per the stated reason of the notice. The tenants' claim that on the date they moved out a woman was moving in as a new tenant. The tenants argue that they have provided a copy of the new tenant's mail as confirmation of a new tenant. The landlord disputed this claim confirming that a woman did move in, but that she was his partner and that he had moved in a few days later. The landlord clarified that he shared the premises with her and that she did contribute rent of \$1,400.00 each month.

Analysis

Section 51 (2) of the Act states that a tenant who receives a notice to end tenancy under section 49 is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount equal to one months' rent payable under the tenancy agreement and if the landlord has failed to take steps to accomplish the stated purpose

for ending the tenancy under section 49 within a reasonable period after the effective date of the notice or if 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 tenant is entitled to an amount equivalent to double the monthly rent.

In this case, I accept the undisputed evidence of both parties and find that the landlord did serve the tenants with the 2 Month Notice dated July 2, 2017 and complied with the stated reason of the notice. Both parties confirmed the contents and the stated reason on the notice. The tenants have stated that upon moving out a woman moved into the premises which they claim is a new tenant. The tenants have provided a copy of an envelope with the new tenant's name for the premises. The landlord has clarified that the woman moving in was his partner and that he had moved in himself a few days later. As such, without further evidence to the contrary, I find that the landlord did take steps to accomplish the stated purpose of the notice to end tenancy by occupying the premises within a few days after the tenants vacating the premises. The landlord provided an explanation that the woman moving in was his partner at the time and that they were sharing the premises. As such, the tenants' application for monetary compensation is dismissed.

Conclusion

The tenants' 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 08, 2018

Residential Tenancy Branch