



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 the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

Issues

Is the tenant entitled to a monetary order for compensation for damage or loss?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background & Evidence

The tenancy began back in 2003 and the monthly rent at the end of the tenancy was \$1300.00.

On June 2, 2016, the previous owner of the house served the tenant with a 2 Month Notice to End Tenancy on the grounds that the rental unit had sold and the purchaser intended to occupy the rental unit. The effective date of the 2 Month Notice was August 31, 2016.

The tenant vacated the rental unit on July 31, 2016.

The tenant is claiming an amount equivalent to double the monthly rent as compensation for the purchaser ("landlord") not using the rental property for her own use after issuing the 2 Month Notice to End Tenancy.

The tenant testified that the landlord immediately re-rented the rental unit for a higher rent and never moved in.

The landlord acknowledged that she did not move in but she had a good faith intention to move in, however, her father was seriously ill and admitted to the hospital. The landlord testified that the tenant was offered to stay on two separate occasions but the tenant refused. The house was then rented to new tenants. The landlord did move into the house one year later in August 2017.

The tenant testified that they had already moved all of their belongings when they were offered to stay and it was at an increased rent.

Analysis

Section 51 (2) of the Act provides that if 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 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 double the monthly rent payable under the tenancy agreement.

At the time the 2 Month Notice was issued to the tenant, there was no provision in the Act for an Arbitrator to excuse the landlord from this penalty under extenuating circumstances. Therefore, the landlord's testimony in regards to her father falling ill is not applicable. The fact that the landlord may have offered the tenant to stay after the tenant had already acted on the notice does not take away the landlord's liability under the Act.

I find the landlord did not accomplish the stated purpose for ending the tenancy within a reasonable period after the effective date of the 2 Month Notice.

I allow the tenant's claim for an amount equivalent to double the monthly rent and award an amount of \$2600.00, which is double the monthly rent of \$1300.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$2700.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$2700.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 07, 2018

Residential Tenancy Branch