



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2213568 ALBERTS LTD
and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes FFT, MNDCT

Introduction

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

:

- a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentary evidence for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of twelve months' rent as claimed?

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

Background and Evidence

The tenant gave the following testimony. The month to month tenancy had a monthly rent payable of \$1630.00 due on the first of each month. On September 21, 2019 the landlord served the tenant with a Two Month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenants to move out of the rental unit by November 30, 2019. The ground for the Notice was:

- *All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.*

The tenant moved out of the rental on November 1, 2019 but when he returned on November 23, 2019, he discovered that an individual named “Darrell” was living in the unit. The tenant testified that Darrell advised him that he was renting at \$1500.00 per month. The tenant testified that Darrell was doing renovations in the unit. The tenant testified that the landlord must have “got wind of this” and quickly moved in by the end of December 2019. The tenant testified that since the landlord originally rented the unit out, he should be entitled to 12 months rent as compensation.

The landlord’s representative gave the following submissions. LN submits that Darrell was working for the landlord to do a small and minor renovation over a twenty day period. LN submits that the tenant is somewhat correct that Darrell was renting from the landlord, however; he was renting a room in a different unit in this three suite complex. LN submits that it wasn’t possible for Darrell to reside in the subject unit as repairs were being conducted. LN submits that the landlord moved into the unit with his wife in late November and have been residing there since. LN submits that the landlord has done what they said they would do as per the notice within a reasonable timeframe and that the tenants application should be dismissed.

Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month’s rent. Section 51 (2) of the Act states as follows:

- (2) In addition to the amount payable under subsection (1), if
 - (a) 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
 - (b) 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 twelve times the monthly rent payable under the tenancy agreement.

The applicant seeks payment of compensation in the amount of twelve times the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the property was not used for the stated purpose for ending the tenancy. The landlord's representative provided submissions on behalf of the landlord that addressed the tenants allegations. In addition, the landlord submitted numerous documents to show that he resides in the home and has been since November 2019. Based on the above, the landlord has provided sufficient evidence to dispute the allegation of the tenant that the unit was rented out. As the tenant has not provided sufficient evidence to support his claim, on a balance of probabilities, I hereby dismiss this application in its entirety without leave to reapply.

Conclusion

The tenant's application is 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: May 21, 2020

Residential Tenancy Branch