



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding PROMPTON REAL ESTATE SERVICES
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNETC FFT

Introduction

This dispute relates to a tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. \$27,600 for 12 months' compensation under section 51(2) of the Act,
2. \$100 filing fee.

The tenant and an agent representing the landlord company (agent) attended the teleconference hearing. Both parties were affirmed. The hearing process was explained, and the parties were given an opportunity to ask questions during the hearing. Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing and make submissions to me.

I have reviewed all oral, documentary and digital evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence related to the facts and issues in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The agent confirmed the landlord company name and I amended the application to correctly reflect the proper spelling of the landlord company name under section 64(3)(c) of the Act. The agent also confirmed that the landlord company did not submit any documentary evidence in response to the application. The agent stated that they had received the tenant's documentary evidence and application and reviewed that prior to the hearing. Based on the above, I find the parties were sufficiently served according to the Act.

Preliminary and Procedural Matters

While the agent suggested that the incorrect landlord was named, I disagree as the tenancy agreement named the landlord company as landlord. In addition, the 2 Month Notice served on the landlord also named the landlord company and not a private landlord. Accordingly, I find the tenant named the current landlord company as landlord.

In addition, the participants confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Issues to be Decided

- Is the tenant entitled to a monetary order for compensation in the amount of 12 times the monthly rent pursuant to section 51(2) of the Act?
- If yes, is the tenant also entitled to the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on March 1, 2021. Monthly rent was \$2,300.

There is no dispute that the tenant was served with the 2 Month Notice dated March 28, 2022 and that the 2 Month Notice had an effective vacancy date of May 31, 2022. The tenant did not dispute the 2 Month Notice and vacated the rental unit May 31, 2022.

The reason stated on the 2 Month Notice was as follows:

Reason for this Two Month's Notice to End Tenancy (check the box that applies)	
<input checked="" type="checkbox"/>	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).
Please indicate which close family member will occupy the unit.	
<input checked="" type="radio"/>	The landlord or the landlord's spouse
<input type="radio"/>	The child of the landlord or landlord's spouse
<input type="radio"/>	The father or mother of the landlord or landlord's spouse
<input type="checkbox"/>	The landlord 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.
<input type="checkbox"/>	All of the conditions for the 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.
<input type="checkbox"/>	The tenant no longer qualifies for the subsidized rental unit.

The agent confirmed that they stopped working for the owner of the property as of May 31, 2022. The agent also confirmed that landlord company did not occupy the rental unit since serving the 2 Month Notice.

Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

12 times the monthly rent - Section 51(2) of the Act applies and states:

Tenant's compensation: section 49 notice

51 (2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if

(a) steps have not been taken, within a reasonable period after the effective date of the notice, to accomplish the stated purpose for ending the tenancy, or

(b) the rental unit is not used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

[emphasis added]

Based on the evidence before me, I find the agent has provided no evidence that they complied with the reason stated on the 2 Month Notice and did not raise the issue of extenuating circumstances. Furthermore, if the landlord company intends to issue more 2 Month Notices, the landlord company may wish to include the actual landlord owner name as the person intending to occupy the rental unit.

Given the above, I find that the landlord did not use the rental unit for the stated purpose as required by section 51(2) of the Act and have provided insufficient evidence to support extenuating circumstances that prevented them from using the rental unit for the stated purpose for at least 6 months from May 31, 2022, which was the effective vacancy date listed on the 2 Month Notice. Therefore, I find the landlord has failed to provide sufficient evidence that they complied with the reason stated on the 2 Month Notice and are liable for issuing a 2 Month Notice on the tenant. I find the tenant's claim

is fully successful and I grant the tenant **\$27,600** in compensation from the landlord, comprised of 12 times the monthly rent of \$2,300 pursuant to section 51(2) of the Act.

As the tenant's application was fully successful, I grant the tenant the recovery of the cost of the filing fee in the amount of **\$100** pursuant to section 72 of the Act.

I find the tenant has established a total monetary claim of **\$27,700** comprised of \$27,600, which is 12 times \$2,300 monthly rent, plus the \$100 filing fee.

Conclusion

The tenant's application is fully successful.

I find the landlord failed to use the rental unit for the stated purpose on the 2 Month Notice. I find the landlord has also failed to prove extenuating circumstances that prevented them from complying with the reason listed on the 2 Month Notice.

The tenant is granted a monetary order pursuant to section 67 of the Act, in the amount of \$27,700 as indicated above. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The landlord is reminded that they can be held liable for all enforcement costs related to the monetary order under the Act.

This decision will be emailed to both parties. The monetary order will be emailed to the tenant only for service on the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 11, 2023

Residential Tenancy Branch