



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for compensation required by the *Residential Tenancy Act* for the landlord issuing a Two Month Notice to End Tenancy For Landlord's Use of Property, and to recover the filing fee from the landlord for the cost of the application.

Two of the named tenants attended the hearing and indicated that the other tenants are the tenants' children. An agent for the landlord also attended. The landlord and one of the tenants gave affirmed testimony and the parties were given the opportunity to question each other and to give submissions.

The landlord has not provided any evidentiary material, and the parties agree that the tenants have provided all evidence to the landlord. Therefore, all evidence of the tenants has been reviewed and the evidence I find relevant to the application is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for compensation required by the *Act* after giving a Two Month Notice to End Tenancy For Landlord's Use of Property?

Background and Evidence

The landlord's agent is the landlord's son, who testified that this fixed-term tenancy began on May 15, 2021 and reverted to a month-to-month tenancy after May 14, 2022.

The tenants vacated the rental unit on March 6, 2023. Rent in the amount of \$3,500.00 was payable on the 15th day of each month and there are no rental arrears. On April 10, 2021 the landlord collected a security deposit from the tenants in the amount of \$1,750.00 all of which has been returned to the tenants. The rental unit is a full house.

The landlord's agent further testified that on February 11, 2023 the landlord's agent served the tenants with a Two Month Notice to End Tenancy For Landlord's Use of Property, and a copy has been provided for this hearing by the tenants. It is dated February 11, 2023 and contains an effective date of vacancy of April 15, 2023. The reason for issuing it states: 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), specifying the landlord or the landlord's spouse. The landlord and close family members, including the landlord's agent moved into the house on March 18, 2023.

On February 13, 2023 the tenants gave the landlord written notice to vacate on March 4, 2023. The landlord gave the tenants \$3,000.00, which included the \$1,750.00 security deposit, and a portion of rent due to the landlord.

The tenant testified on February 13, 2023 the tenants gave notice to the landlord in writing that the tenants would vacate earlier than the effective date of the Two Month Notice to End Tenancy For Landlord's use of Property, and that the tenants would vacate on March 4, 2023. The tenants did not pay rent on February 15, 2023.

The tenant went to the rental unit in March, 2023 and gave the landlord mail.

The tenants received \$3,000.00, which consists of the security deposit, and according to the tenant's calculation, the landlord still owes the tenants \$3,500.00.

Analysis

Where a landlord gives a Two Month Notice to End Tenancy For Landlord's Use of Property, the landlord is required to provide compensation to the tenant equivalent of 1 month's rent. In this case, rent was \$3,500.00.

The law also states that a tenant may move out earlier than the effective date of the landlord's notice by giving the landlord 10 days notice and pay rent to the effective date of the tenant's notice. The parties agree that the landlord received the tenants' 10 day notice to vacate on February 13, 2023 effective on March 4, 2023.

In completing the calculation, the tenants were liable for the rent due from February 15, 2023 to March 4, 2023, which is 18 days. The rental amount of \$3,500.00 is then pro-rated to 18 days which amounts to \$125.00 per day ($\$3,500.00 / 28$ days), and for 18 days, which includes February 15, 2023 and March 4, 2023, that amounts to \$2,250.00 that the tenants were obligated to pay the landlord. The landlord returned \$3,000.00 to the tenants which includes the \$1,750.00 security deposit.

In other words, the tenants are not entitled to a free month of rent and \$3,500.00. The landlord was obligated to pay the tenants:

- $\$3,500.00 + \$1,750.00$ security deposit = \$5,250.00.

The tenants were obligated to pay:

- \$2,250.00 rent from February 15 to March 4, 2023.

$\$5,250.00 - \$2,250.00 = \$3,000.00$. The landlord returned \$3,000.00 to the tenants. Therefore, I dismiss the tenants' application without leave to reapply.

Conclusion

For the reasons set out above, the tenants' application is hereby dismissed.

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: October 03, 2023

Residential Tenancy Branch