



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC RR

Introduction:

Both parties attended the hearing and gave sworn testimony. The tenant said they served the Application for Dispute Resolution on the landlord by registered mail. I find the documents were legally served for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain compensation of one month's rent (\$450) for illegal eviction and changing the locks contrary to section 31 of the Act;
- b) To obtain compensation (\$72.81) for items remaining in the unit when she was locked out.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that they were illegally evicted and the locks wrongfully changed to lock them out? If so, are they entitled to compensation and in what amount?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced April 1, 2015, rent was \$300 a month and then raised by agreement to \$450 month after the tenant's boyfriend moved into the unit also. There is no security deposit. The landlord said this tenant had been a family friend and they accommodated her out of kindness so there was no security deposit or pet damage deposit although she had a pet. They continued to arrange their matters verbally even when the tenant's boyfriend moved in without consent at the time. The landlord said she did inform the tenant on or about May 31, 2017 that she would need the suite for she had visitors coming. However, she said she did not consider this a Notice to End Tenancy and

intended to serve a proper notice when she knew when her visitors might come. She said she was unsure if she told the tenant to leave.

The tenant said she was told on May 31, 2017 that her tenancy was ending and she would have to move out. On June 3, 2017, the tenant texted the landlord that she needed Two Months Notice to End the Tenancy if she was taking the suite for her own use. She said the landlord became very upset on June 3, 2017 and said she would throw out their stuff if they did not leave. She said they left the rent money \$450 for June on the table that evening and it was taken. On June 9, 2017, they texted the landlord that they were not moving as they had been informed of their rights. However they were extremely shaken and went to their parent's place to stay. The landlord agreed there had been a heated dispute on June 3, 2017 but said both sides were agitated and aggressive.

The tenant said they were still living in their suite when the locks were changed by the landlord on June 14, 2017. The entrance door lock which also gives access to the landlord's unit was changed and the door to their suite was left wide open. The landlord said the entrance door has a combination lock that was giving problems so they changed it but informed the tenant she could gain access any time if she called ahead. They said there was an agreement that the entrance door to the suite had to be left unlocked at all times for safety as they needed access to the furnace and house services. She said the tenant's bedroom door had a lock.

The landlord said the tenant moved out on June 10, 2017 using a big trailer. They only left a few pieces of furniture and cleaning supplies. They retrieved the furniture later and her husband had stored the cleaning supplies in the garage where the tenant can pick them up. The parties arranged for the tenant to pick them up on Friday November 24, 2017 about 5 p.m.

Included with the evidence are many text messages between the parties, letters and the application. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

I find the tenant indicated in her letter to the landlord that she was illegally evicted for landlord's use of the property and entitled to a month's free rent. I find this is a misconception. There was no legal section 49 Notice to End Tenancy and this is required to trigger the compensation under section 51 of the Act. Therefore, I find the

tenant not entitled to a free month's rent under these sections even if the landlord gave her verbal notice. The tenant had the option of making an application in June to preserve the tenancy but did not do so until September 2017.

However, I find the weight of the evidence is that the landlord used self help to illegally evict her. I find the landlord changed the locks on June 14, 2017 and did not provide the tenant with a key (or combination) contrary to section 31 of the Act to freely enter and leave their unit for which they had paid rent for June. I find the landlord also prohibited her boyfriend from entering although she had been collecting an additional \$150 rent for him by mutual agreement. Therefore, I find the tenant entitled to one half of June's rent refunded or \$225. I find the tenant testified they were still living there until June 14, 2017, although the landlord said they packed most of their belongings and moved them on June 10, 2017. Although they may have been frightened or upset by the arguments with the landlord, I find the weight of the evidence is both parties engaged in heated dispute. The landlord said there were damages to the unit and was advised she must make her own application to claim compensation for any damages.

Conclusion:

I find the tenant entitled to a monetary order for \$225 for a refund to her of half of the month's rent when she was illegally locked out. No filing fee was paid.

I HEREBY ORDER the landlord to allow the tenant to pick up her cleaning supplies on Friday November 24, 2017 at approximately 5 p.m.

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: November 07, 2017

Residential Tenancy Branch