

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC FF

Introduction

This hearing dealt with an application by the tenant for a monetary order under section 67 under the Residential Tenancy Act (RTA) in respect to section 51 (2) (b) of the (RTA) subsequent to an end of tenancy under section 49 of the RTA previously determined in May of 2008. The tenant is alleging the landlord's possession of the rental unit under section 49 of the RTA was not in good faith as stipulated by the Act, as the rental unit has not been used for the stated purpose by the landlord five (5) months after the effective date of the notice and is still vacant. The tenant's application also includes for recovery of the \$50 filing fee associated with making this application.

Both the tenant and the landlord attended the hearing and gave testimony under solemn affirmation.

Issue(s) to be Decided

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

This rental unit is a mobile home unit in which the mobile home only was being rented. The tenancy ended June 30, 2008. In part, a decision by a Dispute Resolution Officer dated May 13, 2008 found there to be insufficient evidence to conclude the landlord did not intend in good faith to convert the rental unit for use by a caretaker, manager or superintendent, in this case, the landlord themselves. Now five (5) months after the end of the tenancy, the tenant has gathered information that the rental unit is not being used

for its intended purpose and is still vacant. The tenant is of the understanding articulated under section 51 of the RTA that he is entitled to the equivalent of double the monthly rent payable, plus is claiming an additional amount for equipment storage fees. The landlord forwarded evidence, with a copy to the tenant, indicating the reasons why the landlord did not proceed as planned on the use of the rental unit obtained under the section 49 notice to end tenancy. Specifically:

- “ Mr. A vacated the property at the end of June and upon inspection by the on-site manager after he left we were very dismayed at the condition of the home and not sure whether it was salvageable. There was water damage along the whole side of the home and the roof, ceiling and walls would have to be replaced as a minimum. The deck was not safe to use, the flooring was ruined, and the skirting needed to be replaced. The whole mobile was filthy and garbage was left behind. The smell of the home was a real worry considering the water damage”. In addition, the landlord provided, in part, “this unit is not liveable”.
- “Now we are faced with this unit still on site, not liveable and winter coming. So this bad situation does not worsen over the winter season, we have talked to an outside contractor to fix it. It will be expensive and will take time.”

Further testimony by the landlord recounted efforts to sell the rental unit at a 75 % reduction of the provided market price for a similar home, and was unable to do so due to its condition, in spite of the reportedly low price.

Analysis

Based on the tenant's and landlord's testimony I find that the tenant has not provided evidence that, in respect to this matter the landlord's intentions were not, or are not in good faith.

Conclusion

I am dismissing the tenant's application for a monetary order under section 67 of the Residential Tenancy Act (RTA), for compensation under section 51(2) (b) of the RTA. In so doing I also dismiss the portion of the tenant's application seeking to recover the filing fee associated with this application.

Dated: December 15, 2008