

DECISION

Dispute Codes MNDC, FF

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for a monetary order for \$4040.34. The applicants are also requesting that the respondents bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

Background and Evidence

The applicants testified that:

- The landlord served them with a two month Notice to End Tenancy for landlord use, stating that their daughter intended to move into the rental unit.
- They subsequently gave notice to the landlords that they would vacate at the end of September 2009, and did so.
- They did not pay rent for the month of September 2009; it was taken as the equivalent to one month rent compensation allowed under the act.
- The landlord failed to comply with the reasons given for ending the tenancy, and their daughter never moved into the rental unit.
- They believe that this notice was not given in good faith, but was given because a previous 10 day Notice to End Tenancy had been set aside by a Dispute Resolution Officer and the landlords were just looking for another way to get them out.

- The rental unit was subsequently listed for sale in December 2009, and is now listed as having been sold.

The applicants are therefore requesting compensation as follows:

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|---|-----------|
| transfer fees for B.C. Hydro | \$13.02 |
| Installation fee for Bell express view | \$100.00 |
| Tenants time off work | \$502.32 |
| Increase in rent of \$100 per month for four months | \$400.00 |
| Compensation equal to double the monthly rent as required under the residential tenancy act | \$3000.00 |
| Filing fee | \$50.00 |
| Total | \$4090.34 |

The respondents testified that:

- They did give notice to the tenants for landlord use and at the time it was given in good faith as their daughter fully intended to move into the rental unit.
- Their daughter however was unable to move into the rental unit due to emotional issues.
- Their daughter's son had died in the dispute property some years earlier, and when their daughter was at the dispute property doing some work to prepare it for move-in she found that just being in the home was bringing up strong negative emotional issues.
- Their daughter subsequently had an emotional breakdown that was triggered by being in the dispute property and as a result she was unable to move into the dispute property.
- They did not foresee this happening, as it had appeared that their daughter had emotionally dealt with the death of her son.
- Their daughter's reaction and subsequent breakdown came as a surprise and was something that was certainly beyond their control.

- Therefore since her daughter was unable to move into the rental property they decided to list it for sale.

The respondents therefore requested this notice be dismissed, because the Notice to End Tenancy was given in good faith and they had no control over their daughter's inability to move into the rental unit.

Analysis

Section 51(2) of the residential tenancy act states:

Tenant's compensation: section 49 notice

51(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 double the monthly rent payable under the tenancy agreement.

In this case the tenants have shown that the rental unit was not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, and although the landlords testified that the reason that it was not used for the stated purpose was due to an emotional breakdown suffered by their daughter, they have supplied no evidence in support of this claim.

Therefore, in view of the lack of evidence to support the landlords claim I must find in favour of the tenants request for compensation equivalent to two months' rent.

I further order that the respondent bear the \$50.00 cost paid for the filing fee.

I will not allow the remainder the tenants claim however. The tenants have already been compensated the equivalent of 1 months' rent, as they did not pay rent for the month of September 2009, and as stated above the additional compensation required if the landlord fails to comply with the reasons given for ending the tenancy is the equivalent of two months' rent, and that is what I have ordered.

Conclusion

I have issued an order for the respondents to pay \$3050.00 to the applicant's.

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: June 03, 2010.

Dispute Resolution Officer