

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement and to recover the cost of the filing fee from the Landlord for this application.

Service of the hearing documents, by the Tenants to the Landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on January 6, 2010. The Landlord confirmed receipt of the hearing package.

The Landlord and male Tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

The Landlord confirmed that he did not submit evidence to the *Residential Tenancy Branch*.

Issues(s) to be Decided

Are the Tenants entitled to a Monetary Order pursuant to section 67 of the *Residential Tenancy Act*?

Background and Evidence

The undisputed testimony included the fixed term tenancy agreement began on February 1, 2009, and was set to expire on February 1, 2010. The tenancy ended early on November 1, 2009, after the Landlord served the Tenants a two month notice to end tenancy for landlord's use on September 8, 2009 which was to be effective November 8, 2009. The notice was issued indicating the rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member. The Tenants informed the Landlord

on September 18, 2009, via e-mail, that they were entitled to compensation after receiving the notice to end tenancy, they would be taking their one month compensation as payment for their October 2009 rent and that they would be vacating the rental unit by November 1, 2009. The security deposit of \$825.00 plus the pet deposit of \$825.00 were refunded to the Tenants, in full, at the end of the tenancy.

The Tenant testified that when they first began to negotiate the terms of the tenancy agreement they informed the Landlord they were seeking a long term tenancy as they did not want to be faced with another move in the near future. The Tenant argued they had to suffer costs and stress of moving prior to the end of the fixed term only to find out later the Landlord listed the property for sale and the Landlord did not occupy the unit. The Tenant stated they are seeking compensation equal to two month's rent of \$3,300.00 (2 x \$1,650.00).

The Landlord argued his family was going through financial hardship and needed to sell the rental unit to avoid claiming bankruptcy and then stated that he needed to complete renovations on the unit before anyone could live in the unit. The Landlord testified the rental unit was listed for sale near the beginning of November 2009, an offer was accepted during approximately the third week of November 2009, and the new owners took possession on December 23, 2009. The Landlord confirmed the rental unit remained vacant between the Tenants moving out and when the title transferred to the new owners.

Analysis

The evidence supports the Landlord issued the Tenants a two month notice to end tenancy effective November 8, 2009, that the Landlord listed the property for sale near the beginning of November, 2009, the property sold in November 2009, and the rental unit was never used for the purpose listed on the notice to end tenancy.

Section 51(2) of the Act provides that a tenant is entitled to additional compensation, equal to two times the amount charged for the monthly rent, if the rental unit is not used

for the stated purpose as indicated in the notice to end tenancy. Based on the aforementioned I find the Tenants are entitled to compensation pursuant to section 67 of the Act, and I hereby award the Tenants a monetary amount of \$3,300.00.

The Tenants have been successful with their application, therefore I award recovery of their \$50.00 filing fee.

Conclusion

I HEREBY FIND in favor of the Tenants' monetary claim. A copy of the Tenants' decision will be accompanied by a Monetary Order for **\$3,350.00** (\$3,300.00 + \$50.00). The order must be served on the respondent Landlord and is enforceable through the Provincial Court as an order of that Court.

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 11, 2010.

Dispute Resolution Officer