

DECISION

Dispute Codes OLC, FF

Introduction

This hearing dealt with an application by the tenant for an order that the landlord comply with the Act. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to receive compensation?

Background and Evidence

The parties agreed that on or about January 15 the tenant was served with the first page of a two month notice to end tenancy. The landlord explained to the tenant that he wished to move into the rental unit. The notice listed the effective date as March 15. The parties discussed the notice and the tenants claim that the landlord agreed that they could extend the end of the tenancy to enable the tenants to complete the purchase of their home. The landlord testified that he gave the tenants a note advising that they could disregard the notice. The tenants paid rent through the end of the tenancy and now seek compensation.

Analysis

Section 51 of the Act provides that when tenants are given a two month notice to end tenancy the landlord is obligated to pay them the equivalent of one month's rent. Although the notice to end tenancy was not complete in that it was missing several pages, I am satisfied that the tenant vacated the rental unit pursuant to the notice. I do not accept that the landlord withdrew the notice as the tenant denied having received the letter the landlord claimed to have given her. Further, the landlord may not unilaterally withdraw a notice; it may only be withdrawn where the parties agree. The

landlord claimed that because the tenant sent him a letter advising when she would be vacating the property, he understood this to mean that she was ending the tenancy on her own terms and not pursuant to the notice to end tenancy. I do not accept that the tenant is the one who ended the tenancy. Rather, I find that the landlord voluntarily extended the effective date of the notice to accommodate the tenant's needs. I find that the landlord is responsible to pay the tenant the equivalent of one month's rent and I award the tenant \$1,250.00. I further find that the landlord should bear the cost of the tenant's application and I award the tenant \$50.00.

Although the tenant did not apply for a monetary order, she did ask that I order the landlord to comply with the Act. I find that the issuance of a monetary order in the interest of ensuring compliance with an order that he comply with the Act is appropriate.

Conclusion

I grant the tenant a monetary order under section 67 for \$1,300.00 which represents \$1,250.00 in compensation and \$50.00 for the filing fee. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: June 21, 2010
