

Decision

Dispute Codes: MNDC, FF

Introduction

This hearing dealt with an application by the tenants for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenants are entitled to either or both of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the original fixed term of tenancy for the upstairs portion of a house was from February 1, 2009 to January 31, 2010. The parties amended this tenancy agreement to become a month-to-month tenancy effective November 1, 2009. Monthly rent was \$2,700.00, and a security deposit of \$1,350.00 was collected on November 19, 2008.

A separate month-to-month tenancy agreement was entered into for the basement portion of the house effective March 1, 2009. Monthly rent was \$800.00.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated July 1, 2009 with respect to the basement portion of the house. The landlord's stated intention was that his son would take up residence in the basement portion of the house.

Subsequently, the landlord issued a 2 month notice to end tenancy for landlord's use of property dated October 16, 2009 with respect to the upstairs portion of the house. The

landlord's stated intention was that his son would be taking up residence in the entire house.

There is no dispute between the parties around payment of tenants' compensation with respect to the initial issuance of the notice(s), and no dispute related to return of the security deposit(s). However, the tenants question the landlord's "good faith" intentions related to issuance of the notices, as they consider the landlord's intentions all along were to sell the house. Ultimately, the house was sold in June 2010.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

In relation to the particulars of this dispute, the attention of the parties is drawn to section 49 of the Act which speaks to **Landlord's notice: landlord's use of property**, as well as section 51 of the Act which addresses **Tenant's compensation: section 49 notice**. Further, the attention of the parties is drawn to provisions set out in Residential Tenancy Policy Guideline # 2 which speaks to "Ending a Tenancy Agreement: Good Faith Requirement."

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the landlord will pay the tenants \$3,900.00;
- that the above payment will be made by way of certified cheque;
- that the above certified cheque will be made payable to tenant "MWB" (*not* tenant "CWB");

- that the above certified cheque will be put into the mail by no later than midnight, Friday, July 30, 2010;
- that the above payment reflects a 50 / 50 share between the parties of the filing fee paid by the tenants;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$3,900.00**. This order may be served on the landlord and, should it be necessary, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 26, 2010

Dispute Resolution Officer