



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenants seeking compensation due to the landlords' failure to use the rental unit for the stated purpose provided in a 2 month Notice to End Tenancy for Landlord's Use of the Property.

The tenants provided documentary evidence demonstrating that the landlords were served with notice of this application and hearing by registered mail on June 11, 2010. The tenants also stated that a copy of the evidence provided as part of this application was also sent to the landlord by registered mail on October 18, 2010.

Based on the documentary evidence provided by the tenants, I am satisfied that the landlords were served with notice of this proceeding by registered mail and I deem that the landlords received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

I proceeded with the hearing in the landlords' absence.

Issues(s) to be Decided

Did the landlords use the rental unit for the stated purpose in the 2 month Notice to End Tenancy for Landlord's Use of the Property?

Background and Evidence

The tenancy began on approximately February 1, 2009 for the monthly rent of \$1,500.00. The tenancy ended on March 1, 2010 at 1:00 p.m. following service of a 2 month Notice to End Tenancy for Landlord's Use of the Property. The notice to end tenancy indicated that the landlord intended to use the property by close family members.

The tenants have filed this application as they alleged that the landlords did not use the rental unit for the stated purpose on the notice to end tenancy. The tenants submitted an excerpt of the landlords' evidence from a previous Dispute Resolution hearing which supported the landlords' position that the rental unit would be used as a living accommodation for the landlords' mother and nephew.

The tenant testified that since vacating the rental unit on March 1, 2010, the rental unit has remained vacant until June 2010. The tenant stated that he lived in the neighbourhood and would observe the rental unit occasionally and would attend the rental unit occasionally to pick up his mail.

In June 2010 the tenant stated that he attended the rental unit and knocked on the door. He testified that he spoke with the new occupants who told him that they were the new tenants and that they had entered into a lease with the landlord. The tenant testified that the occupants were not close family members of the landlord.

Analysis

I find on the balance of probabilities, and in the absence of any evidence from the landlord that the rental unit has not been used for the stated purpose on the 2 month Notice to End Tenancy for Landlord's Use of the Property.

I accept the uncontested oral testimony of the tenants that the rental unit remained vacant for a number of months and then was occupied by new tenants in approximately June 2010. I accept that the tenants specifically monitored the rental unit from a distance as they questioned the landlords' true intent when the notice to end tenancy was originally served upon them.

I accept that the landlords have not used the rental unit as living accommodation for their mother and nephew which was the stated purpose of the notice to end tenancy. I find that this is a breach of section 51(2) of the *Act* by the landlords and as a result the tenants are entitled to compensation equivalent to the sum of double the monthly rent.

I grant the tenants application and find that a monetary claim for the sum of \$3,000.00 has been established pursuant to section 51(2) of the *Act*. This claim is comprised of double the tenants' monthly rent of \$1,500.00.

Conclusion

The tenants' application is granted. I grant the tenants a monetary Order for the sum of **\$3,000.00**. This Order must be served upon the landlords. This Order may be filed with the Province of British Columbia Small Claims Court and enforced 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: October 27, 2010.

Dispute Resolution Officer