



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, FF

Introduction

This matter dealt with an application by the tenants to obtain a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, Regulations or tenancy agreement, and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were sent to the landlord by registered mail on October 01, 2010. The landlords were deemed to be served the hearing documents on October 06, 2010, the fifth day after they were mailed as per section 90(a) of the *Act* and the hearing proceeded in the landlords' absence.

Both parties were provided the opportunity to present evidence and make submissions. As the landlords did not appear the submissions were made by the tenants. On the basis of the evidence presented at the hearing, a decision has been reached.

Issue(s) to be Decided

- Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The tenant's testify that this tenancy started on March 01, 2009. This was a month to month tenancy. Rent for this unit was \$1,550.00 per month and was due on the first day of each month. The tenants moved from the rental unit on August 24, 2009 after being given a Two Month Notice to End Tenancy from the landlord.

The male tenant testifies that the landlord served them with the Two Month Notice which was dated June 30, 2009. The tenants have provided a copy of this Notice in evidence and it shows the reason given on the Notice is that the landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property. The tenant testifies that the landlord did not use the property for the purpose stated on the Notice and the property was sold on November 24, 2009.

The tenant testifies that he had given the landlord posted dated cheques for their rent and he stopped the cheque for August, 2009 as their compensation for the Two Months Notice. The tenant states they only applied for compensation of one month on his application as he thought the August rent would be included in the two months compensation. The tenant has provided documentary evidence from the real estate company which shows that the property was sold.

The tenant requests that their application is amended to allow them to apply for compensation equivalent to two months rent as specified under the *Act*.

Analysis

The landlords did not appear at the hearing to dispute the tenant's claims; therefore, in the absence of any evidence from the landlords, I have carefully considered the tenants documentary evidence and affirmed testimony before me.

S. 51 of the *Act* states that if a landlord or purchaser does not take steps to accomplish the stated purpose for ending the tenancy under s. 49 of the *Act* within a reasonable period after the effective date of the notice or the rental unit is not used for that stated purpose for at least 6 months the landlord or purchaser must pay the tenant an amount that is equivalent to double the monthly rent payable under the tenancy agreement.

I find that there is sufficient evidence from the tenants to show that the property was sold and was not converted for use by a caretaker, manager or superintendent of the residential property as stated on the Notice. It is therefore my decision, pursuant to s. 51(2)(b) of the *Act*, that the

tenants are entitled to compensation to an amount that is equivalent to double the monthly rent payable under the tenancy agreement.

As such I find the tenants are entitled to a Monetary Order to the amount of **\$3,100.00** pursuant to s. 67 of the *Act*. As the tenants have been successful in this matter, they are also entitled to recover their **\$50.00** filing fee from the landlords pursuant to section 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$3,150.00**. The order must be served on the respondents 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: February 01, 2011.

Residential Tenancy Branch