



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, O

Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act or tenancy agreement.

Issue(s) to be Decided

1. Is the Tenant entitled to compensation and if so, how much?

Background and Evidence

This tenancy started on June 12, 2009 and ended on October 31, 2010 when the Tenant moved out. Rent was \$1,650.00 per month payable in advance on the 1st day of each month. On September 28, 2010 the Landlord's agent served the Tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property dated September 28, 2010. The ground stated on the Notice was that "the rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member (father, mother or child) of the Landlord or the Landlord's spouse."

The Tenant said he discovered that the owner of the property listed it for sale on November 11, 2010. The Tenant said he viewed the property with a realtor on January 11, 2011 and it appeared that the property had not been occupied since he moved out. The property owner said he served the Tenant with a 2 Month Notice because his daughter planned to move from South Korea to go to school and it was his intention that she would reside in the rental unit. The property owner said, however, his daughter's plans changed after the tenancy ended and he decided to sell the property. The Landlord admitted that the property has not been occupied by the Landlord or a close family member since the tenancy ended and is still listed for sale.

Analysis

Section 51(2) of the Act says that if steps have not been taken to use a rental property for the purpose stated on a 2 Month Notice to End Tenancy within a reasonable time following the effective date of the Notice or for at least 6 months after the effective date

of the Notice, then the Landlord must pay the Tenant compensation equal to 2 months rent.

The effective date of the 2 Month Notice to End Tenancy served on the Tenant was November 30, 2010. I find that the rental property has not been occupied by the Landlord, the Landlord's spouse or a close family member of the Landlord or the Landlord's spouse since November 30, 2010. I also find that the Landlord has no present intention of occupying the rental unit but instead plans to sell it. Consequently, I find that the Tenant is entitled to compensation equal to 2 months rent or \$3,300.00. As the Tenant has been successful in this matter, I also find that he is entitled pursuant to s. 72(1) of the Act to recover from the Landlord the \$50.00 filing fee for this proceeding.

Conclusion

A Monetary Order in the amount of **\$3,350.00** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: April 13, 2011.

Residential Tenancy Branch