

DECISION

Dispute Codes MNDC, FF, O

Introduction

This is an application filed by the Tenant for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have acknowledged receiving the evidence package of the other, I am satisfied that each has been properly served with the notice of hearing and evidence packages under the Act.

Both parties agreed that the named respondent, C.S. was the Tenants Landlord who sold the rental property to the new owner, J.T.F. Both parties also agreed that the 2 month notice to end tenancy for landlord's use of property dated May 24, 2011 with the reason; All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this notice because the purchaser or a close family member intends in good faith to occupy the rental unit. As such the good faith dispute is with the purchaser/new owner, J.T.F. and not the original landlord/seller. The hearing shall proceed against the purchaser, J.T.F. only.

The Tenant also seeks recovery of notary fees totalling, \$84.50. Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Tenant's claim for recovery of litigation costs are dismissed.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

The Tenant states that her monthly rent was \$890.00. The Tenant states that she was served the 2 month notice to end tenancy for landlord's use of the property with the stated reason; All of the conditions for sale of the rental unit have been satisfied and the

purchaser has asked the landlord, in writing, to give this notice because the purchaser or a close family member intends in good faith to occupy the rental unit. The Tenant has provided as evidence two advertisements, one dated September 5, 2011 advertising the rental unit for occupancy on October 2, 2011 and again on September 21, 2011 for occupancy on October 15, 2011. The Landlord confirms that she posted these ads. The Landlord states that her mother fell ill and was supposed to move into the property in October of 2011. The Landlord stated during this time that she thought that it would be best to not move in and rent out the property. The Landlord also states that she spoke to "Gary" the seller's realtor, "told us we can't do it". The Landlord stated that they were informed by "Gary" in early October that they could not rent the property. The Landlord states that as soon as she was notified that she withdrew the rental ads. The Tenant disputes this stating that she had a friend call the landlord at the end of September, in which she was told that the property was rented. The Landlord stated in her direct testimony that the property was currently rented out to friends. The Landlord also states they are currently living in a rental property and have been since 2008.

Analysis

I find on a balance of probabilities based upon the direct testimony of both parties and the documentary evidence of the Tenant that she has established a claim that the purchaser, J.T.F. has not complied with the notice in good faith to occupy the rental unit. The Landlord even after being advised by the realtor that she could not rent the unit chose to rent the property to friends. This contradicts the notice which states that the rental property was to be occupied by the purchaser a close family member. The Tenant has established a monetary claim of \$1,780.00 consisting of double the monthly rent of \$890.00. The Tenant is also entitled to recovery of the \$50.00 filing fee. The Tenant is granted a monetary order under section 67 for the balance due of \$1,830.00.

Conclusion

The Tenant is granted a monetary order for \$1,830.00.

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: March 27, 2012.

Residential Tenancy Branch