



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant requesting a monetary order for compensation equivalent to two months of rent pursuant to section 51 of the Act, and to recover the filing fee for the Application.

The Tenant appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Tenant testified and provided documentary evidence he served the Landlord with the Notice of Hearing and Application by registered mail, sent on January 16, 2012. The evidence filed by the Tenant indicates the registered mail was delivered to the address of the former rental unit and went unclaimed, and was returned to the Tenant. Under the Act, mail is deemed served five days after mailing. I find the Landlord has been duly served in accordance with the Act. I also note that refusal or neglect to pick up registered mail is not a ground for review under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Landlord breached the Act, entitling the Tenant to monetary compensation?

Background and Evidence

On or about December 20, 2010, the Tenant was served with a two month Notice to End Tenancy by the former owner of the property, which had an effective end date to the tenancy of February 28, 2011 (the "Notice").

The Notice indicated the tenancy was ending because the rental unit property had been sold and the purchaser, or a close family member as defined under the Act, was going to occupy the rental unit. In this case the purchaser is identified as the Landlord.

The Tenant moved out of the rental unit on or about February 28, 2011. At the end of the tenancy his monthly rent was \$1,050.00.

The Tenant testified that after he moved out the rental unit no one moved in for a period of several months. The Tenant testified he moved “four doors” down from the rental unit. His new address is very close to the former rental unit. He sees the rental unit on a daily basis. He testified he noticed that the grass grew very high in the yard and the property was not lived in for several months.

In or about September of 2011, the Tenant saw some people moving into the rental unit. The Tenant testified he spoke with these people and they informed him they had rented the property. They told the Tenant that they had rented the property for \$1,500.00. They told him they were not related to the Landlord.

After a few months, the Tenant saw these new people moving out of the rental unit. He spoke with them again and they informed him they were having problems with the Landlord at the rental unit and were going to file an Application for a dispute resolution hearing against the Landlord.

The Tenant performed a title search at the Land Titles Office and submitted a copy of the title print out. The owner of the property is identified as the Landlord named in these proceedings.

The Tenant submits that the Landlord evicted him in order to raise the rent. The Tenant further submits that the Landlord did not take steps to use the property as indicated in the Notice.

Analysis

Based on the above, the uncontradicted evidence and testimony, and on a balance of probabilities, I find that the Landlord has breached section 51 of the Act.

I accept the testimony and evidence of the Tenant that the Landlord, or a close family member as defined in the Act, has failed to move into the rental unit property which was the stated purpose for ending the tenancy.

I also accept the testimony of the Tenant with regard to the conversations he had with the people moving into the rental unit. I note that hearsay evidence is acceptable under section 75 of the Act, and that the testimony of the Tenant was necessary and relevant and appropriate in the circumstances.

Under section 51, if the Landlord fails to accomplish the stated purpose for ending the tenancy, they must pay an amount equivalent to double the monthly rent payable.

Therefore, I find the Tenant has established a monetary claim against the Landlord in the amount of **\$2,150.00**, comprised of double the monthly rent of \$1,050.00 and the \$50.00 filing fee for the Application.

I grant and issue the Tenant a monetary order in these terms, which must be served on the Landlord. If the Landlord does not pay the order, it may be enforced in Provincial Court.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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 15, 2012.

Residential Tenancy Branch