



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 by the tenant for a monetary order for compensation for loss under the *Act* and for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issue(s) to be Decided

Is the tenant entitled to compensation and the return of the filing fee?

Background and Evidence

The tenancy ended on July 31, 2011 after the tenant was served a two month notice to end tenancy for landlord's use of property. The reason for the notice was that the landlord or his family member intended to move into the rental unit. The effective date of the notice was July 31, 2011.

The agent for the landlord stated that the mother of the relative who intended moving into the unit met with a motor vehicle accident on July 13, 2011 in China. The relative decided to stay in China to look after his mother. The landlord filed a notarized letter written by the relative in a foreign language and also filed a translation of the letter. The letter confirms the landlord's agent's version of events.

The agent for the landlord stated that pursuant to Strata by laws, the landlord was unable to rent the unit as 90 days had passed after the owner had approval to rent and the unit remained vacant. The landlord also agreed that the unit was up for sale and had been so during the tenancy.

Analysis

Pursuant to Section 51 of the *Residential Tenancy Act*, a tenant who receives a notice to end tenancy under Section 49 which is for landlord's use of property and the rental unit is not used for the stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

In this case, the tenant received the notice to end tenancy for landlord's use of property under Section 49. The notice indicated that the landlord intended in good faith to have his close relatives occupy the rental unit. Based on the testimony of both parties, I find that the landlord's relatives never did move in and as of the date of the hearing, the rental unit remains vacant.

Also based on the fact that the unit was up for sale, suggests on a balance of probabilities, that the landlord did not have intentions of having his relatives from China occupy the rental unit. Since the unit was not used for the stated purpose, I find that the landlord must pay the tenant \$2,200.00 which is the equivalent of double the monthly rent. Since the tenant has proven her case, she is also entitled to the filing fee of \$50.00.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of **\$2,250.00**. This order may be filed in the 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: March 27, 2012.

Residential Tenancy Branch