



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a monetary order for compensation under the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

Are the tenants entitled to compensation under the Act?

Background and Evidence

The tenancy began September 2008. Rent in the amount of \$850.00 was payable on the first of each month. A security deposit of \$420.00 was paid by the tenants.

The parties agreed the tenants were served with a two month notice to end tenancy for landlord's use of property issued on March 26, 2010. The parties agreed the tenants accepted the notice and moved from the rental unit on May 31, 2010.

The parties agreed the landlord took possession of the rental unit on June 1, 2010 and had exclusive use of the unit until September 28, 2010. The landlord admits on September 28, 2010, the rental unit was rented due to unforeseen financial difficulties.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Tenant's compensation: section 49 notice

- 51 (2) In addition to the amount payable under subsection (1), if
- (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or
 - (b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

In this case, the property was rented during the six month period after the effective date of the notice and not used for the landlords use as required by the Act.

Section 51(2)(b) provides that if a landlord does not comply with section 51 of the Act the landlord must pay the tenant the equivalent of double the monthly rent payable under the tenancy agreement. The legislation does not provide any flexibility on this issue.

Therefore, I find the landlord has breached the Act, and the tenants are entitled to compensation of double the monthly rent under the terms of the tenancy agreement.

Conclusion

Having made the above findings, I must order, pursuant to section 51 and 67 of the Act, that the landlord pays the tenants the sum of \$1,700.00, the equivalent of double the monthly rent (\$850.00).

The tenant is given a formal order in the above terms and the landlord must be served with a copy of this order as soon as possible. Should the landlord fail to comply with this order, the order may be filed in the small claims division of the Provincial 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: July 19, 2012.

Residential Tenancy Branch