



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC and FF

Introduction

The hearings were convened on the tenants' application for monetary compensation in the equivalent of two months' rent under section 51(2) of the *Act* on the grounds that the landlord did not use the rental unit for a purpose stated in a Notice to End Tenancy for landlord use under section 49 of the *Act*

Issues to be Decided

Did the landlord take the landlord take steps toward accomplishing the purpose stated in the notice within a reasonable period after the effective date of the Notice?

Background and Evidence

This tenancy began on September 1, 2009 at a monthly rent of \$800 and the landlord held a security deposit of \$400.

The parties concur that the landlord served the tenant with a Notice to End Tenancy for landlord use served on October 31, 2011 and setting an end of tenancy date of January 31, 2012. The stated purpose of the notice was that the rental unit was needed for occupancy for the landlord or a close family member.

The tenant vacated on or about January 1, 2012 on and received the equivalent of free rent for December 2011 as prescribed under section 51(1) of the *Act* when notice has been served for landlord use.

According to the landlord, she began residing in the rental unit on May 23, 2012 although the tenant believes it was a week or two later.

The tenant states that by the move being delayed in the order of five months after her tenancy ended, “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,” as required by section 51(2)(a) of the *Act*.

The landlord submitted copies of receipts and photographs demonstrating that repairs to the chimney, bathroom and ceiling were completed in January 2012 and stripping refinishing of cupboards and doors and repainting took place throughout the balance of the period from the end of the tenancy to her taking occupancy.

The landlord gave evidence that the notice had partly been necessitated by the fact that as a student working on a master’s degree she had run short of funds and had decided to accept her parents’ urgings that she move into the three-unit rental building as resident manager.

She stated that the delay in moving in had resulted from the need for remediation in the building in which she owned a condominium which had suffered water intrusion and hampered her finding a new tenant, her heavy academic workload and her part time job.

The tenant stated that her observations and enquiries of other tenants in the building verified that neither the landlord nor any other tenants had moved into the rental building between her vacating and the landlord moving in.

Analysis

Section 51 of the Act provides, in part, that:

- (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 the present matter, I find the pertinent question to be whether the landlord took steps within a reasonable time after the conclusion of the tenancy to make the rental unit ready for her own occupancy. Clearly, the work done in January 2012 constitutes a reasonable period within which to begin the work.

In view of the complications with respect to her condominium and given the demands of the landlord's academic workload and part time job, I accept the evidence of the landlord that she tended to the substantial redecorating as time permitted.

Under the circumstances, I find that the landlord's occupancy did begin within a reasonable time after the effective date of the Notice to End Tenancy.

In the absence of any suggestion that the landlord rented the unit to another party, I find no ulterior motive in the Notice to End Tenancy.

Therefore, the tenant's claim for compensation in the equivalent of two month's rent under section 51(2) of the Act is dismissed without leave to reapply.

Conclusion

The application is dismissed without leave to reapply.

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 10, 2012.

Residential Tenancy Branch