



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for loss – Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The tenancy of a unit in a 10 unit apartment building started on May 1, 2010 and ended on May 31, 2012 pursuant to a Two Month Notice to End Tenancy for Landlord’s Use.

The Tenants state that the Landlord ended their tenancy in bad faith and that the real reason for ending the tenancy was because the Tenants had a dog in the unit. The Tenant states that they do not believe that the Landlord or a close family member intends on occupying the unit. The Tenants state that nobody has occupied the unit since the end of the tenancy and provided an email from a tenant that lives in the building that indicates that this person has not seen anyone in the unit, has seen some renovations being done to the unit and has heard from the Landlord that the Landlord’s

daughter will be moving in. The Tenant states that the hydro bill provided as evidence by the Landlord shows limited use and is not evidence of occupation.

The Landlords state that they own 100% of the voting shares of the family corporation and that the unit is being occupied by the Landlords and their children as extra recreation space for the children and for the storage of the Landlord's furniture. The Landlord states that one daughter moved into the unit in July 2012 but has left to travel and will return again at the end of November 2012. The Landlord states that the space will also provide extra room for other children who come to visit or stay with the Landlord. The Landlord states that the family currently resides in five of the units, including units on the top floor, and are waiting for permits to renovate the space on the top floor. The Landlord states that they also did renovations to the unit in dispute and are not yet finished these renovations as well but hope to have it completed by the end of November 2012. Further, the Landlord states that it is their intention to keep the unit in dispute as a residence or extra space for the family as the unit is directly underneath the Landlord's bedroom and they wish to retain the quiet. The Landlords state that the hydro bill is small as there is no fridge or stove in the unit and the weather for the period of the bill was unusually warm requiring no heat to the unit.

The Landlord does not dispute that they owe the Tenant for a utility bill and agree to pay the Tenants \$95.20 for this bill. The Tenant withdraws its claim for \$21.67 in relation to costs associated with the reinstatement of their hydro during the tenancy.

Analysis

Section 51(2) provides that 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.

Given the consistent evidence of the Landlord in relation to the family use of the unit, noting that the Tenant did not provide any evidence to refute the Landlord's evidence of use and occupation by the family and noting that the Tenant's evidence from the neighbour appears to support the Landlord's evidence of renovation and family usage of the unit, I find that the Tenants have failed to show, on a balance of probabilities, that the Landlord ended their tenancy in bad faith. Although it does appear that the Landlords acted to end the tenancy following the dispute over the dog, given the Landlord's undisputed evidence that they also occupied several of the units at the time, I do not find the dispute over the dog to be either determinative or supportive of bad faith in relation to the Landlord's use and occupation of the unit by themselves and their family. I therefore dismiss this part of the Tenants' application.

Given the agreement of the Landlord, I find that the Tenant is entitled to a monetary amount of **\$95.20** for utility costs. As the Tenant has been only minimally successful with its application, I decline to award recovery of the filing fee.

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$95.20**. If necessary, 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: November 13, 2012.

Residential Tenancy Branch