



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application filed by the tenant seeking: a monetary order for compensation in the sum of \$ 900.00 as a result of the respondent's failure to comply with section 51(2) the Act and recovery of the filing fee paid for this application. Both parties attended the hearing.

Issue(s) to be Decided

Is the applicant entitled to compensation?

Background and Evidence

Service was admitted. The applicant testified that his tenancy began on April 1, 2006 with rent amounting to \$50.00 per month. The applicant testified that he was served with a two month landlord use notice to end the tenancy dated January 26, 2012 in reliance upon section 49 (5)(c)(i) which states:

- (i) the **purchaser** is an individual and the purchaser, or a close family member of the **purchaser**, intends in good faith to occupy the rental unit.

The applicant moved out of the unit on March 31, 2013 because of the aforementioned Notice. The applicant testified that the purchaser did not occupy the unit and advised him that the purchaser did not in fact request vacant possession from the previous landlord.

Mr. H.R. the previous co-owner and landlord testified that he did not want to end the tenancy and only did so because the purchaser insisted on vacant possession.

I explained to the applicant in this matter that he likely named the wrong party or alternatively that he ought to have named both the previous landlord and the purchaser as based upon the evidence presented at this hearing it appears he has named the wrong party or it is difficult to determine who is responsible for compensation. The applicant insisted that he was given advice by someone at the Residential Tenancy Office to proceed only against the landlord. Regardless, I carefully read him relevant sections of the Act and explained what the problem was in his application.

The applicant then became verbally abusive and disconnected from the hearing.

Analysis

Section 51(2) of the Act states:

- (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 matter, in absence of sufficient evidence from the purchaser, and considering the evidence submitted at the hearing, it is likely that the applicant has brought his application against the landlord when it is the purchaser who he ought to have named. Alternatively I find it is not possible to determine whether the landlord or the purchaser is liable to pay any compensation without evidence from both parties. Accordingly I determined that it would be just and fair to dismiss the application but grant the

applicant leave to reapply at which time it would be prudent for him to name both the previous landlord and the purchaser.

Conclusion

I have dismissed the applicant's application with leave to reapply. I have not allowed the applicant to recover his filing fee herein.

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: June 24, 2013

Residential Tenancy Branch