



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC MNDC FF

Introduction

This hearing dealt with an application by the tenant for a monetary order pursuant to Section 51(2) of the Act. The tenant also requested recovery of the filing fee from the landlord. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the tenant entitled to the requested orders?

Background and Evidence

This tenancy began approximately five years ago. The rent was \$3,235.00 per month. On May 31, 2013, the landlord served the tenant with a 2 Month Notice to End Tenancy with an effective date of July 31, 2013. The Notice indicated that (a) the landlord or a close family member would be moving into the unit; and (b) that the landlord had all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that required the rental unit to be vacant.

Mr. F testified that the landlord lives in a one bedroom unit in the same building in which the rental unit is located. Mr. F testified that the landlord intended to move into the rental unit with his mother who was supposed to be coming from Romania. After the tenant vacated the rental unit, the landlord had the carpets in the suite removed and hardwood floors put down and also gave the entire unit a fresh coat of paint. Mr. F testified that the landlord's mother then advised that she no longer wished to come to Canada. The landlord then resolved to just stay in his one bedroom unit and find new tenants for the rental unit. To this end, On July 20, 2013 the landlord placed ads for the rental unit in various locations including Kijiji and Craigslist. New tenants then moved into the unit on August 1, 2013.

For his part, the tenant believes he is entitled to compensation under Section 51(2) of the Act based on the facts admitted to above by the landlord. The tenant also provided evidence in support of his case including copies of the rental ads and tape recordings of conversations he had with the landlord.

Analysis

The question in this case is whether the tenant is entitled to compensation under Section 51(2) of the Act. This section says as follows:

- 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 the present case, two reasons were given for ending the tenancy. One was that the landlord or a close family member was moving in and the other was that the landlord intended in good faith to demolish, repair or renovate the rental unit in a manner that required it to be vacant.

Clearly, the first reason given was not fulfilled. The landlord did not move in and neither did his mother.

So the question becomes whether the landlord fulfilled his notice that he intended to renovate or repair the unit in a manner that required the rental unit to be vacant. The landlord did in fact remove all the carpeting and put down hardwood floors. He also gave the whole unit a fresh coat of paint. He did this all in the space of three weeks after the tenant vacated.

In my view, the renovations and repairs done by the landlord were not so extensive that it was really necessary to evict the tenant and end the tenancy. The tenant could have vacated the unit for a few weeks while the floors were changed or could have even remained in the unit and simply moved his things around to accommodate the work. In addition, it is my opinion, that the renovations were actually being made in anticipation of the landlord's mother coming to live there and that in fact the two reasons given by the landlord on the Notice were interrelated.

In the result, I find that the tenant has established that he is entitled to compensation pursuant to Section 51(2) of the Act.

Conclusion

Accordingly, I order that the landlord pay to the tenant the sum of \$6,470.00 in compensation pursuant to section 51(2) of the Act.

I further order that the landlord pay to the tenant the sum of \$100.00 representing the filing fee for this application.

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: December 10, 2013

Residential Tenancy Branch

