



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation for loss under the *Act* and for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to compensation and to the recovery of the filing fee?

Background and Evidence

The tenancy started on May 15, 2011 and ended pursuant to a notice to end tenancy for landlord's use of property dated December 10, 2012. The reason for the notice was, "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse." The tenant moved out on February 28, 2013.

The tenant stated that shortly after the tenant moved out, the landlord started advertising the availability of the rental unit. The tenant filed copies of two advertisements dated March 06, 2013 and April 11, 2013.

The landlord stated that she moved into the rental unit in the first week of March and moved out in the first week of May 2013 to live with her daughter because she was diagnosed with cancer. In her written submission dated October 07, 2013, the landlord states that she moved out because the renovations in her daughter's home were complete and her daughter invited the landlord to live with her. The landlord does not refer to her health condition as the reason for her move out of the rental unit.

The landlord agreed that she advertised the availability of the rental unit as early as March 06, 2013; the reason being it took a long time to find good tenants. The advertisement in the local paper dated April 11, 2013 stated that the unit was available "now". The landlord agreed that a new tenant moved in on May 15, 2013.

The Tenants seek an amount equal to double the monthly rent as compensation from the Landlord for not complying with the two month notice to end tenancy for Landlord's use of property.

Analysis

Pursuant to Section 51 of the *Residential Tenancy Act*, a tenant who receives a notice to end tenancy under Section 49 which is for landlord's use of property and the rental unit is not used for the stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

In this case, the tenant received the notice to end tenancy for landlord's use of property under Section 49. The notice indicated that the landlord intended in good faith to occupy the rental unit. Based on the testimony of both parties and the evidence filed by the tenant, I find that the landlord did not intend to occupy the rental unit for at least six months. The actions of the landlord which include advertising the availability of the unit within a week after the tenant moved out indicate that she intended to re rent the unit. Since the unit was not used for the stated purpose for a period of at least six months, I find that the landlord must pay the tenant \$1,600.00 which is the equivalent of double the monthly rent. The tenant has proven her case and is entitled to the filing fee of \$50.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of \$1,650.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$1,650.00**.

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 11, 2013

Residential Tenancy Branch

