



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This is an application filed by the tenant for a monetary order for money owed or compensation for damage or loss and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The tenant provided a copy of the 2 month notice to end tenancy issued for landlord's use dated May 21, 2014, but the landlord states that he did not receive it. However, the landlord did issue a notice dated May 21, 2014 and has confirmed the contents of the notice as being the same. The landlord has submitted 7 pages of photographs of the rental unit. As such, I am satisfied that both parties have been properly served with the notice of hearing package and the submitted documentary evidence.

The tenant clarified that they are seeking a monetary claim because the landlord failed to comply with the 2 month notice to end tenancy issued for landlord's use by failing to take steps toward the stated purpose for which the notice was given. The landlord indicated that he understood the application filed by the tenant.

Issue(s) to be Decided

Is the tenant entitled to a monetary order?

Background and Evidence

Both parties confirmed that there was a signed tenancy agreement, but that neither party submitted a copy of which.

Both parties agreed that the submitted copy of the 2 month notice to end tenancy for landlord's use dated May 21, 2012 has an effective end of tenancy date of August 1, 2012. There are two reasons for the notice selected.

- 1) The landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.
- 2) The landlord intends to convert the residential property to strata lots or a not-for-profit housing cooperative.

The tenant states that after vacating the rental unit on August 1, 2012 that the rental property as of the spring/summer of 2013 the building remains the same and that new tenants are occupying the rental unit. The landlord states that after he served the 2 month notice on the tenants that the city refused to grant the necessary permits and approvals for demolishing and/or repairs to the property. The landlord also states that he could not secure financing to start the work.

The tenant states that the monthly rent was \$1,600.00 and is asking as per the Act the monetary claim of double that amount for failing to comply for the stated intended use for \$3,200.00 in compensation. The landlord disputes the tenants claim stating that monthly rent was not \$1,600.00.

Analysis

I find on a balance of probabilities that the tenants have failed in establishing their monetary claim. It is clear that the landlord failed to comply with the intended use of the notice as per his direct testimony that he did not have all of the permits and approvals needed to demolish or repair the rental when he served the notice upon the tenants. However, the tenants have failed to provide sufficient evidence to satisfy me of what the monthly rent is as it is in dispute by the landlord.

The onus or burden of proof lies with the party who is making the claim. In this case it is the tenant's responsibility. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The tenants monetary claim is dismissed.

Conclusion

The tenant's application is dismissed.

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: April 17, 2014

Residential Tenancy Branch

