



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution (the "Application") seeking remedy under the *Residential Tenancy Act* (the "Act"). The tenant applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and for an order directing the landlord to comply with the *Act*. The tenant indicates in his Application that he is requesting 2 month's rent in compensation as the landlord did not sell the property as indicated in the eviction notice, the 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice").

The parties appeared at the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that he received the landlord's documentary evidence and that he had the opportunity to review the landlord's documentary evidence prior to the hearing. The tenant submitted his documentary evidence late and not in accordance with the Rules of Procedure. As the parties did not want to consider an adjournment the tenant's evidence was excluded in full as it was not served in accordance with the Rules of Procedure.

Preliminary and Procedural Matter

As the parties confirmed that the tenant vacated the rental unit as of June 1, 2012, I dismiss the tenant's request for the landlord to comply with the *Act*, regulation or tenancy agreement as it is moot given that the tenancy ended on June 1, 2012. I will consider the remainder of the tenant's application, whereby the tenant is seeking double the monthly rent of \$1,000.00 for a total of \$2,000.00 in compensation from the landlord

due to the rental unit not being used for the stated reason indicated in the 2 Month Notice dated March 30, 2012, pursuant to section 51(2) of the *Act*.

Issue to be Decided

- Is the tenant entitled to a monetary order for compensation in the amount of double the monthly rent pursuant to section 51(2) of the *Act*?

Background and Evidence

Details of the written tenancy agreement were provided orally during the hearing. The parties agree that a written tenancy agreement, although not submitted in evidence, began on February 1, 2011 and continued on a month to month basis until the tenant received a 2 Month Notice dated March 30, 2012 and vacated the rental unit on June 1, 2012 in accordance with the effective vacancy date listed in the 2 Month Notice. A copy of the 2 Month Notice was submitted in evidence. The effective vacancy date is listed as June 1, 2012. Rent in the amount of \$1,000.00 was due on the first day of each month.

The parties agreed that the tenancy ended on June 1, 2012. The 2 Month Notice dated March 30, 2012, indicates the reason as “All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.”

The landlord testified that the sale of the home collapsed on the buyer's end. The landlord did not submit any documents to support that the buyer wrote to the landlord about all conditions of the sale being satisfied. The landlord confirmed during the hearing that due to the collapsed sale of the home, the landlord continues to own the home and has re-rented the rental unit as a result.

The tenant is seeking compensation in the amount of \$2,000.00 pursuant to section 51(2) of the *Act* as the rental unit was not used for the stated purpose in accordance with the *Act*.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable under the *Act* to minimize the damage or loss.

Section 51(2) of the *Act* applies and 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.

[my emphasis added]

As the landlord has confirmed that the sale of the home collapsed I find that rental unit was not used for the stated purpose in the 2 Month Notice for at least 6 months beginning within a reasonable period after the effective date of the 2 Month Notice. Therefore, I find the tenant has met the burden of proof and is entitled to **\$2,000.00** in compensation from the landlord, comprised of double the monthly rent of \$1,000.00 pursuant to section 51(2) of the *Act*.

The tenant has established a total monetary claim of \$2,000.00. I grant the tenant a monetary order pursuant to section 67 of the *Act*, in the amount of **\$2,000.00** for double the monthly rent of \$1,000.00 pursuant to section 51(2) of the *Act*. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant's application has merit. The tenant has established a total monetary claim of \$2,000.00. I grant the tenant a monetary order pursuant to section 67 of the *Act*, in the amount of \$2,000.00 for double the monthly rent of \$1,000.00 pursuant to section 51(2) of the *Act*. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: August 5, 2014

Residential Tenancy Branch

