



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a monetary order for compensation under the Act.

The tenants attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenants testified the Application for Dispute Resolution and Notice of Hearing were served in person on July 5, 2014, the landlord did not appear. I find that the landlord has been duly served in accordance with the Act.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the tenants entitled to compensation under the Act?

Background and Evidence

The tenants were served with a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "notice") issued on March 1, 2014. The reason in the notice states:

"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 tenants testified that they accepted the notice and moved from the rental unit on March 29, 2014 as the landlord wanted them to find new accommodations as soon as possible.

The tenants testified that the landlord did not use the rental unit for the intended purpose stated in the notice. The tenants stated that they drove by the rental premises shortly after the tenancy ended and discovered that the house had been demolished. Filed in evidence are photographs. Filed in evidence is city permit information for the subject property, which indicates on March 21, 2014, the landlord was issued a permit to demolish the dwelling.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Tenant's compensation: section 49 notice

- 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.

[Emphasis added.]

I accept the undisputed testimony of the tenants that the landlord did not use the rental unit for the stated purpose as the documentary evidence support the rental unit was demolished. I find the landlord has breached Section 51(2) of the Act.

Section 51(2)(b) provides that if a landlord does not comply with the Act the landlord must pay the tenant the equivalent of double the monthly rent payable under the tenancy agreement. The legislation does not provide any flexibility on this issue.

Therefore, I find the tenants are entitled to compensation that is equivalent to double the monthly rent.

Conclusion

Having made the above findings, I must order, pursuant to section 51 and 67 of the Act, that the landlord pays the tenants the sum of **\$1,550.00**, the equivalent of double the monthly rent (\$750.00) and the \$50.00 filing fee.

The tenants are given a formal order in the above terms and the landlord must be served with a copy of this order as soon as possible. Should the landlord fail to comply with this order, the order may be filed in the small claims division of the Provincial Court and enforced as an order of that court.

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: November 05, 2014

Residential Tenancy Branch

