



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC, FF

Introduction

This hearing dealt with an application by the tenants for a monetary order. Both parties participated in the conference call hearing.

Issue to be Decided

Are the tenants entitled to a monetary order as claimed?

Background and Evidence

The facts are not in dispute. On February 20, 2014, the landlords served the tenants with a 2 month notice to end tenancy for landlord's use of property (the "Notice"). The Notice stated that:

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 landlords had not yet sold the property at the time they served the Notice but had merely listed it for sale and were acting on the advice of their realtor who told them they could end the tenancy. The landlords eventually sold the property later that year.

The tenants seek an award of 2 months' rent pursuant to section 51 of the Act because the landlords did not use the rental unit for the stated purpose.

Analysis

Section 51 of the Act provides as follows:

51. Tenant's compensation: section 49 notice

51(2) In addition to the amount payable under subsection (1), if

- 51(2)(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
- 51(2)(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.

While I appreciate that the landlords received poor advice from their realtor, it was open to them to carefully read the Notice before they served it on the tenant. The Notice very clearly stated that the unit had already been sold and that the purchaser had asked the landlord to evict the tenants so the purchaser could occupy the unit. The landlords were well aware that this was untrue but still chose to issue the Notice in order to achieve their desired end.

This provision of the Act is specifically designed to penalize landlords who end tenancies when they have no legal grounds to do so. I find that the landlords did not have grounds to end this tenancy and that they did not use the rental unit for the purpose stated on the Notice and should therefore be subject to the s. 51 penalty. I award the tenants \$3,600.00. As the tenants have been successful in their claim, I find they should recover the \$50.00 filing fee paid to bring their application and I award them \$50.00. I grant the tenants a monetary order under section 67 for \$3,650.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenants are granted a monetary order for \$3,650.00.

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: January 16, 2015

Residential Tenancy Branch

