



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing and had opportunity to be heard.

At the hearing, the landlord said that he had a significant amount of evidence which he could provide to support his defence. When asked why he had not submitted that evidence in advance of the hearing, the landlord said the hearing date had approached very quickly and he had a death in the family within the past week. I advised the landlord that I would not accept evidence submitted after the hearing as he had received the tenant's application in November 2014 and had had 5 months to assemble and submit his evidence.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on May 15, 2009 and ended on July 31, 2013 pursuant to a 2 month notice to end tenancy (the "Notice"). The Notice states that the landlord is ending the tenancy because the landlord, his spouse or a close family member will occupy the rental unit. The tenant alleged that the landlord, his spouse or a close family member did not move into the rental unit, but that the landlord placed the unit for sale less than one month after the tenancy ended and that it sat vacant for a period of time.

The landlord confirmed that he did not move into the rental unit. He testified that after the tenancy ended, he discovered problems with the electrical wiring in the rental unit and when it was inspected by an electrician, he was told that the unit was unsafe for

habitation. He testified that because he did not have the money to fix the wiring, he put a new roof on the rental unit and placed it for sale. The landlord's realtor testified that the unit was advertised for sale just to get an idea of what it might be worth. She said there was very little interest in the unit and the listing was cancelled after one month. The landlord testified that the unit sat vacant for approximately one year before it was placed on the market again and sold. The landlord alleged that the tenant caused the wiring problems and rendered the home uninhabitable

The tenant denied having tampered with the electrical system and testified that she had told the landlord several times during the tenancy that there were wiring problems.

Analysis

Section 51 of the Act provides as follows:

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.

The landlord acknowledged that he or his close family member did not reside in the rental unit. Although he claimed that an electrician told him that the house was uninhabitable, he did not provide any evidence such as a statement from the electrician to corroborate that claim. The landlord appears to have taken no steps to repair the electrical system and instead, chose to sell the unit. If the landlord had taken any steps whatsoever to render the unit fit for habitation, I may have considered that he had completed his obligation under sections 49 (the section of the Act under which the Notice was issued) and 51. However, he did not address the electrical problems, which were the primary issue he claims prevented him from residing in the unit.

I find that the landlord did not occupy the unit within a reasonable period, nor did he takes steps to accomplish that purpose. I find that the landlord is liable under section 51(2) to pay the tenant double the monthly rent payable for the unit.

The parties agreed that the rent was originally set at \$1,350.00 per month, but that for the last 6 months of the tenancy the landlord had reduced the rent to \$1,300.00 per month. I find that the rent was \$1,300.00 per month at the relevant time and therefore order the landlord to pay \$2,600.00 to the tenant. I grant the tenant a monetary order under section 67 for that sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant is granted a monetary order for \$2,600.00.

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: April 24, 2015

Residential Tenancy Branch

