



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and one of the landlords.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 51, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began in 2011 as a month to month tenancy for a monthly rent (at the end of the tenancy) of \$2,000.00 due on the 1st of each month with a security deposit of \$1,000.00 paid. The tenancy ended on August 31, 2015.

The parties agreed the landlord issued the tenants a 2 Month Notice to End Tenancy for Landlord's Use of Property on July 2, 2014 with an effective vacancy date of August 31, 2015 citing the landlord had all necessary permits and approvals required by law to demolish the rental unit or rep the rental unit in a manner the requires the rental unit be vacant and the landlord intends to convert the residential property to strata lots or a not-for-profit housing cooperative.

The tenant testified that they found new accommodation by the end of July 2014 and had already entered into a new agreement with their current landlord. The parties agreed that in mid-August the landlords approached the tenants and advised them that they were no longer planning to proceed with their plans and the tenant could stay in the rental unit.

As the tenants had already entered into a new tenancy they were unable to stay and proceeding to vacate the rental unit. The tenant testified that he returned to the rental unit on October 6, 2014 to check for mail and found there were new tenants living in the rental unit.

The landlord confirmed that sometime in October 2014 new tenants did move in and they have since moved out of the rental unit. The landlord submits that they currently have an application with the local authourities to subdivide the residential property.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if:

- a. The landlord or a close family member of the landlord intends in good faith to occupy the rental unit;
- b. The landlord enters into an agreement in good faith to sell the rental unit; all the conditions on which the sale depends have been satisfied; and the purchaser asks the landlord, in writing, to give notice to end the tenancy if the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit;
- c. The landlord has all the necessary permits and approvals required by law, and intends in good faith, to:
 - i. Demolish the rental unit;
 - ii. Renovate or repair the rental unit in a manner that requires the rental unit to be vacant;
 - iii. Convert the residential property to strata lots under the Strata Property Act;
 - iv. Convert the residential property into a not for profit housing cooperative under the Cooperative Association Act;
 - v. Convert the rental unit for use by a caretaker, manager or superintendent of the residential property; or
 - vi. Convert the rental unit to a non-residential use.

Section 51(1) of the *Act* states that a tenant who receives a notice to end tenancy under Section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Section 51(2) states that in addition, if steps have not been taken to accomplish the stated purpose for ending the tenancy under Section 49 within a reasonable time after the effective date or 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 must pay the tenant an amount that is the equivalent of double the amount of rent payable under the tenancy agreement.

As per the landlord's own testimony I find that the landlord, by entering into a new tenancy with another party the landlord has failed to use the residential property in the manner set out in the 2 Month Notice to End Tenancy issued on July 2, 2014. I also find that as the tenants had no choice but to move out after they had entered into a new tenancy despite the landlord's offer to stay and that the tenants sought the new accommodation based on the 2 Month Notice the landlord is responsible for compensating the tenants as they have not used it for the stated purpose.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$4,050.00** comprised of \$4,000.00 compensation owed and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: May 21, 2015

Residential Tenancy Branch

