



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing concerns the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The tenant attended and gave affirmed testimony. The landlord did not appear.

The tenant testified that the application for dispute resolution and notice of hearing (the "hearing package") was served by way of registered mail to 2 separate addresses, as follows: i) the address of the rental unit, and ii) the address of the "Buyer" of the property as shown on the "Contract of Purchase and Sale."

I note that the tenant addressed both packages to the person identified as the registered owner of the property as shown in the Land Title Office. The tenant also identified this person as the "landlord" in his application for dispute resolution. I further note that the name of the person identified as the registered owner of the property and identified as by the tenant as the "landlord," is not the same as the name of the person shown on the "Contract of Purchase and Sale" as the "Buyer" of the property.

Evidence submitted by the tenant includes the Canada Post tracking numbers for both hearing packages. The tenant testified that neither package was claimed and that both packages were ultimately returned to him.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to an earlier decision issued by date of March 03, 2015, a summary of details relevant to the current application is set out below.

The subject tenancy began approximately 10 years ago. By the end of tenancy the monthly rent was \$1,824.80. Pursuant to section 49 of the Act which addresses **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice to end tenancy dated April 23, 2014. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 01, 2014. The reason identified on the notice in support of its issuance is as follows:

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.

Subsequently, on May 20, 2014 the tenant gave notice to end tenancy early and he vacated the unit on or about May 31, 2014. Pursuant to section 51 of the Act which addresses **Tenant's compensation: section 49 notice**, the tenant received compensation from the landlord the equivalent of 1 month's rent.

Thereafter, sometime around September 2014, the tenant found that the unit had been demolished, and the tenant testified that a new residence is under construction on the site. In the result, the tenant concluded that the unit had never been occupied by the purchaser or a close family member as documented on the 2 month notice after he, the tenant, had vacated. Accordingly, the tenant applied for compensation the equivalent of 2 months' rent. The Arbitrator found in the circumstances that the tenant's application ought not to have been filed against the landlord but, rather, the purchaser of the property. The tenant's application was therefore dismissed. In the decision the Arbitrator documented that "Liberty is granted to the tenant to reapply for his claim against the purchaser." The tenant's current application was filed on April 13, 2015.

Analysis

Section 51 of the Act provides in part as follows:

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.

As previously noted, the tenant addressed both of his hearing packages to the owner of the property as identified on documents in the Land Title Office, and this name is not apparently the same name as the purchaser or "Buyer" of the property as shown on the "Contract of Purchase and Sale." I find there is insufficient evidence that the registered owner is also the purchaser or "Buyer." In the result, the tenant's current application must be dismissed. The tenant has the option, however, as already noted in the previous decision of March 03, 2015, "to reapply for his claim as against the purchaser."

Conclusion

The tenant's application is hereby dismissed.

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 26, 2015

Residential Tenancy Branch

