



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 the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for a monetary order for compensation for loss under the *Act*, regulation or tenancy agreement pursuant to section 67.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlords confirmed receipt of the tenant's Application for Dispute Resolution package including Notice of Hearing. I accept that the landlords were sufficiently served with the dispute resolution package.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for loss as a result of this tenancy?

Background and Evidence

This tenancy began as a six month fixed term on January 1, 2013. On July 1, 2013, a month to month residential tenancy agreement was signed by both parties. The rental amount of \$750.00 was payable on the first of each month. The landlords no longer hold a security deposit with respect to this tenancy. After the issuance of a 2 Month Notice to End Tenancy for Landlord's Use ("the 2 Month Notice"), the tenant and her co-tenants vacated the rental unit. Before vacating the unit, the tenant was provided with one month rent paid by the landlords in compliance with the *Act* with respect to a 2 Month Notice. The tenant testified that she and her co-tenants vacated the rental unit on June 1, 2014.

The tenant sought a monetary order in the amount of \$1500.00, the equivalent of two months' rent. She submitted a copy of the 2 Month Notice provided by the landlords that provided the following sole reason to end the tenancy:

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 tenant submitted that the landlord did not use or take steps to use the rental unit for the purpose stated in the 2 Month Notice. The tenant referred to the Residential Tenancy Policy Guidelines (#) and the *Act*, stating that she was entitled to the equivalent of two months' rent from the landlords as they had not used the rental unit for the stated purpose within the required amount of time.

The tenant testified that the landlords were attempting to sell the property. She testified that she believes the landlords issued a 2 Month Notice to End Tenancy to improve the unit for sale of the property. She testified that the property including the rental unit was sold in November 2014. The tenant submitted documentary evidence including; a photograph of the "sold" sign at the property as well as realty listings for the sale of the property. She submitted a letter from the landlords that stated the landlords intended to occupy the property on weekends and vacation time for large family gatherings. The letter dated May 5, 2014 stated,

As this beautiful property affords us great opportunity to use in the summer, fall and winter, we will be taking advantage of this with our family before we sell.

The landlords testified that they used the property as a vacation-type home after the end of this tenancy. They testified that the tenant was aware of their intent to sell the property and that they did not act in any way that was deceptive or disingenuous. The landlords testimony, confirmed by the tenant in this hearing, that the property was for sale for the duration of this tenancy. The landlords testified that they did not re-rent the unit or receive any unjust enrichment as a result of ending the tenancy.

The landlord submitted a letter from the purchaser of the property that stated no other tenants were on this property in the time that the purchaser viewed the property (throughout...) and when... The letter states, "This is our home and not a rental property."

Analysis

The landlords issued a 2 Month Notice to End this tenancy in the proper form and with the appropriate compensation to the tenant. Pursuant to section 49(3), a landlord may

end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. The landlords submitted that their notice was given in good faith, with the letter to further explain their intent to the tenant. The tenant complied with the end to tenancy and vacated the rental unit in June 2014. As of the end of the tenancy (when the tenants vacated the rental unit), the matter of whether the landlords acted in good faith is not the applicable standard to consider.

Section 51 of the *Act* provides further requirements of a landlord with respect to the issuance of a 2 Month Notice to End Tenancy:

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.

The tenant relies on section 51(2) submitting that the landlords neither took steps to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice (June 1, 2014) nor used the rental unit for the purpose stated for at least 6 months beginning within a reasonable period after the effective date of the notice.

I accept the tenant's submissions that the landlords did not use the rental unit for the stated purpose for at least 6 months after the effective date of the notice. I note that the landlords provided reasons why they deviated from the conditions of the notice to end tenancy. However, the landlords' choice to accept an offer to purchase their home with a possession date prior to the expiry of the 6 month period results in a failure to comply strictly with the *Act*. Therefore, I find the tenant is entitled to the equivalent of double the monthly rent payable under the tenancy agreement, \$1500.00.

Conclusion

I issue a monetary order in favour of the tenant in the amount of \$1500.00.

The tenant is provided with this Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 22, 2015

Residential Tenancy Branch

