



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenants' application for a monetary award. The hearing was conducted by conference call. The named tenant and the landlord called in and participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to a monetary award equivalent to two months' rent pursuant to section 51 (2) of the *Residential Tenancy Act*?

Background and Evidence

The rental unit is a suite in a house in Vancouver. The tenants received a verbal request from their landlord to move out of the rental unit. They moved out on September 1, 2013 after three month's verbal notice, having received free rent for the month of August. The tenant said that he was evicted because the landlord intended to develop the property. He said that he filed his application in November 2014 to claim compensation when he noticed that the property was vacant and unused.

The landlord submitted evidence that he has recently obtained a development permit and a demolition permit from the City of Vancouver.

Analysis

Section 51 of the *Residential Tenancy Act* provides that:

Tenant's compensation: section 49 notice

51 (1) A tenant who receives a notice to end a 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.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

(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 did not receive a Notice to End Tenancy under section 49 of the Act. He received a verbal request to move out upon three months' notice and did so without protest. It appears that the landlord was not in a position to give the tenants a valid Notice to End Tenancy for landlord's use of property when he asked the tenants to move out. The tenants were under no obligation to move out pursuant to the landlord's request and had they inquired at the Residential Tenancy Branch, they would have been so advised. Because the tenants did not move out pursuant to a notice given under section 49 of the Act, I find that they are not entitled to compensation pursuant to section 51.

Conclusion

The tenants' application for a monetary award is dismissed without leave to reapply.

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 03, 2015

Residential Tenancy Branch

