



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on April 22, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on May 1, 2007. The tenancy ended on March 31, 2015. The rent at the time the tenancy ended was \$1300 per month payable in advance on the first day of the month. The tenant(s) paid a security deposit of \$525 at the start of the tenancy. The security deposit has been returned to the tenants.

In February 2015 the tenants were served with a two month Notice to End Tenancy dated February 23, 2015 and setting the end of tenancy for April 30, 2015. The grounds on the Notice provided that "The rental unit will be occupied by the landlord or the landlord's spouse or close family member (father, mother or child) of the landlord or the landlord's spouse.

On March 21, 2015 the tenants gave the landlord a 10 day Notice to End Tenancy that stated they were vacating the rental unit on March 31, 2015. The landlord has reimbursed the tenants the equivalent of one month rent under section 51(1) of the Act.

The tenant testified she returned to the property in early April to pick up mail and noticed a "For Sale" sign on the property. The property has been sold.

The landlord testified that it was intended that the son of the owner of the property would move in. He took possession on April 1, 2015. It became apparent that significant renovations would be necessary and he did not wish to proceed with the renovations given the cost. The property was listed for sale on April 8, 2015. The property was sold on April 17, 2015. The agent for the landlord testified that at no time was there an attempt to get rid of the tenants who were considered to be good tenants.

The tenancy ended on June 30, 2011.

The tenant(s) provided the landlord with his/her their forwarding address in writing on

SECTION 51 OF THE RESIDENTIAL TENANCY ACT:

Section 51 of the Residential Tenancy Act provides as follows:

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.

Analysis:

I determined the tenants are entitled to the equivalent of 2 months rent under section 51(2) of the Act. The rental unit was not used for the stated purpose for a least 6 months within a reasonable time after the effective date of the Notice. The property has been sold and it is not possible for the owner's son to move into the rental property. I further determined that steps were not taken to accomplish the stated purpose within a reasonable period of time after the equivalent date of the Notice. I determined the landlord is liable for this claim even if the landlord was acting in good faith when the Notice was given and the son intended to move in.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$2600 plus the sum of \$50 in respect of the filing fee paid pursuant to section 49 for a total of \$2650.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and 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: June 10, 2015

Residential Tenancy Branch

