



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Homelife Glenayre Realty Chilliwack Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MND, MNR, MNDC, OLC, FF

Introduction

This was the hearing of an application by the tenants for compensation from the landlord equivalent to double the monthly rent payable under the tenancy agreement pursuant to section 51(2) of the *Residential Tenancy Act* (Act). The hearing was conducted by conference call; the tenants called in and participated in the hearing. The landlord did not attend although served with the application and Notice of Hearing by delivery to the landlord's representative at the landlord's business office

Issues(s) to be Decided

Are the tenants entitled compensation equivalent to two months' rent pursuant to section 51 of the *Residential Tenancy Act* because the landlord did not use the property for the purpose stated in a Notice to End Tenancy for landlord's use?

Background and evidence

The rental property is a house in Chilliwack. The tenancy began November, 2013. Monthly rent was \$2,100.00 payable on the first of each month. The tenants paid a security deposit of \$1,050.00 at the start of the tenancy. The landlord produced two written forms of application for tenancy.

On July 21, 2014 the landlord served the tenant with a two month Notice to End Tenancy for landlord's use that required the tenants to move out of the rental unit on September 30, 2014. The stated reason for the Notice to End Tenancy was that the rental unit would be occupied by the landlord. The tenants moved out of the rental unit on August 31, 2014. The tenants later learned that the rental property was rented to new tenants who moved into the rental property in Mid-October, 2014. I hear the testimony of the landlords' witness, who lives next door to the rental property. He provided a written statement that he confirmed in his oral testimony. The witness is familiar with the owner of the rental property. The new occupants are not the owners of the property and the witness spoke to the occupants, who confirmed that they are unrelated to the owner and renting the property.

Analysis and Conclusion

Section 51(1) of the *Residential Tenancy Act* requires that a landlord who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (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 applicants seek payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the landlord did not use the rental property for the stated purpose; instead it has been used for an incompatible purpose. I accept the tenants' evidence and the testimony of their witness that the rental unit has been re-rented to new tenants.

Upon the evidence before me it is my finding that the applicants are entitled to the compensation provided by section 51(2). The Act provides that compensation is payable, regardless of intention if the rental unit is not used for the stated purpose for at least 6 months, beginning within a reasonable period after the effective date of the Notice. The property was re-rented less than two months after the tenants moved out, which is not the purposes for which the notice was given. I find that the landlord must pay to the tenants an amount that is the equivalent of double the monthly rent payable under the tenancy agreement, namely: the sum of \$4,200.00. The tenants are entitled to recover the \$50.00 filing fee paid for their application for a total claim of \$4,250.00 and I grant the tenants an order under section 67 in the said amount. This order may be filed in the Small Claims 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: July 16, 2015

