



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened as a result of the tenants' application for dispute resolution under the Residential Tenancy Act ("Act"). The tenants applied for a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee paid for this application.

The listed tenant and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary matter-

At the outset of the hearing, the landlord requested an adjournment of the hearing due to evidentiary issues. The landlord did submit documentary evidence prior to the hearing. I note that the landlord confirmed receiving at least most of the tenants' evidence, and after questioning, I determined the landlord had received at least all the tenants' relevant evidence.

In considering whether or not to grant the landlord's request for an adjournment, Section 6.3 of the Dispute Resolution Rules of Procedure (Rules) gives the Arbitrator authority to adjourn the dispute resolution proceeding to a later time at the request of either party or of the Arbitrator's own initiative.

Under Section 6.4 (b) I considered whether or not the purpose for which the adjournment is sought will contribute to ensure a fair, efficient and consistent process for resolving this dispute. I find that to grant the request for an adjournment would unduly prejudice the rights of the tenants in this matter, as their application and evidence was submitted to the Residential Tenancy Branch ("RTB") and the landlord in December 2014. I also determined that the landlord did not present a compelling reason for the adjournment and that all the relevant evidence was before me for the hearing.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation from the landlord and to recovery of the filing fee paid for this application?

Background and Evidence

The undisputed evidence of the parties was that this tenancy began on February 28, 2013, ended on October 31, 2014, and monthly rent was \$1750.00. The tenant submitted a copy of the written tenancy agreement.

In support of their application, the tenant submitted that they received a 2 Month Notice to End Tenancy for Landlord's Use of the Property ("Notice") from the landlord on or about September 24, 2014, which listed an end of tenancy date of November 30, 2014. The tenant submitted a copy of the Notice, which was signed by the landlord, and as a reason for ending the tenancy, listed that the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

The tenant submitted further that they chose to accept that the tenancy was ending and tendered the landlord a notice that they were vacating the rental unit by October 31, 2014.

The tenants submitted that when they were returning the keys to the rental unit, they saw a "for sale" sign in the yard, on November 3, 2014, submitting further that the home was sold shortly thereafter. The tenant stated that the realtor informed them that the owner wanted a fast sale and submitted copies of the real estate listings.

The tenants submitted that they are entitled to compensation equivalent to 2 months' rent, as the landlord issued the Notice in bad faith, leading to their monetary claim of \$3500.00.

Landlord's response-

The landlord confirmed that although she slept on an air mattress for 3-4 days in the former rental unit, she wanted to move forward and sell the home. The landlord further confirmed that the home was listed on November 3, 2014, and was sold on November 14, 2014, after a bidding war.

Analysis

In the case before me, the undisputed evidence shows that the landlord issued the tenants a 2 Month Notice to End Tenancy for Landlord's Use of the Property, pursuant to section 49 of the Act, and in this case, the landlord listed that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member.

Section 51(2) provides that if steps have not been taken to accomplish the stated purpose for ending the tenancy listed in the Notice within a reasonable time after the effective date of the Notice, or if the rental unit is not being used for the stated purpose, the tenant is entitled to compensation equivalent of 2 months' rent under the tenancy agreement.

I accept the tenants' undisputed evidence, along with the landlord's confirmation, that the landlord listed the rental unit for sale almost immediately after the tenants vacated. I therefore find that the rental unit was not being used for the stated purpose on the Notice and I find the tenants are entitled to a monetary award of \$3500.00, the equivalent of 2 months' rent.

I also grant the tenants recovery of their filing fee of \$50.00 paid for their application, pursuant to section 72(1) of the Act.

Due to the above, I find the tenants are entitled to a total monetary award of \$3550.00, comprised of compensation equivalent to 2 months' rent, or \$3500.00, and recovery of the filing fee of \$50.00.

I grant the tenants a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$3550.00, which is enclosed with the tenants' Decision.

Should the landlord fail to pay the tenants this amount without delay, the tenants may serve the order on the landlord and, if necessary, it may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

Conclusion

The tenants' application for monetary compensation is granted.

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 13, 2015

Residential Tenancy Branch

