



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF, O

Introduction

This was a hearing with respect to applications by the tenants and by the landlord. The tenants applied for a monetary award and for the return of security and pet deposits. The landlord applied for a monetary award seeking compensation for time and expenses to respond to the tenants' claim. The hearing was conducted by conference call. The landlord and the named tenant called in and participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to a monetary award and if so, in what amount?
Are the tenants entitled to the return of their security deposit and pet deposit?
Is the landlord entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a residence in Coquitlam. The tenancy began on November 1, 2014 on a month to month basis with rent in the amount of \$1,350.00 payable on the first of each month. The tenants paid a security deposit of \$675.00 and a pet deposit of \$200.00 at the start of the tenancy. By a written addendum to the tenancy agreement the tenants acknowledged that the rental property was listed for sale and they agreed to allow prospective purchasers to view the property. The addendum contained a further term that the tenants would be notified of a sale of the property and that the tenancy will end with the sale of the property and the tenants will vacate the premises at that time.

In January the landlord entered into a contract of purchase and sale of the rental property. The purchasers notified that landlord that they intended to occupy the rental unit and they requested in writing that the landlord give the tenants a two month Notice to End Tenancy for landlord's use. The landlord served the tenants with a two month Notice to End Tenancy dated January 11, 2015. The Notice to End Tenancy required the tenants to move out of the rental unit by March 31, 2015. Soon after the landlord served the Notice to End Tenancy, the purchasers of the rental unit notified the landlord that they wanted the tenants to continue to occupy the rental unit. The landlord sent the

tenants a text message on January 17, 2015 so advising them. The message stated as follows:

Hi, (name of Tenant) I just received notice from the buyer that they would like you both to stay beyond the March 31. They are going to contact you at moths end to discuss a longer term. (reproduced as written)

The tenants did not move out of the rental unit. They met with the purchaser of the rental unit and, according to the tenant; they signed a new tenancy agreement with the purchaser of the rental property. The tenants then complained to the landlord that the purchaser would not pay them an amount equivalent to one month's rent, "for terminating the contract". The tenant insisted that the landlord was responsible for paying him the amount of one month's rent. The landlord denied that he was responsible for paying any amount to the tenants. The tenant insisted that he was entitled to one month's rent as compensation for having to re-sign a tenancy agreement with the new owner and re-inspect the rental unit. He said that: "The one months compensation rent is to compensate the tenant for this process."

In the application for dispute resolution filed February 8, 2015, the tenants claimed payment of the sum of \$3,805.00 said to be the amount of \$1,375.00, being one month's rent plus the sum of \$875.00, being the amount of the security deposit and pet deposit. The tenants claimed a further \$1,375.00, supposedly because the landlord "ended the contract early". The tenant requested a further \$130.00 for his time. This amount was said to be related to his daily pay rate as a soldier.

Analysis

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.

The compensation is payable on the effective date of the Notice to End Tenancy, which was to be March 31, 2015. The tenant was notified soon after the Notice to End Tenancy was given, that the purchaser had changed plans and no longer intended to move into the rental unit, but instead wished to continue to rent to the tenants. The tenants met with the purchaser. They agreed to sign a new tenancy agreement with the purchaser, but they were not legally obliged to do so. It was open to the tenants to insist that the purchasers had acquired the property subject to the existing tenancy agreement. The fact that the tenants chose to sign a new tenancy agreement with the purchaser does not oblige the former landlord to pay the tenants compensation

pursuant to section 51. The section 51 compensation is given to compensate tenants who have to move from the rental unit. It is not paid to compensate the tenant for entering into a new tenancy agreement. The tenant has also claimed an award in the amount of his security deposit and pet deposit. The deposit amounts were credited to the purchaser pursuant to the statement of adjustments on the sale of the rental property and in the case of the pet deposit, it was paid to the purchaser by the landlord by cheque because the pet deposit amount was inadvertently omitted from the statement of adjustments. These amounts are now held by the purchaser as the tenants' current landlord and there is no obligation on the part of the former landlord to pay these amounts to the tenants.

The provision in the tenancy agreement addendum that said the tenancy would end and that the tenants would vacate the premises in the event of a sale was contrary to the provisions of the *Residential Tenancy Act* and the standard terms that form part of every tenancy agreement. The provision was void and unenforceable, but in any event it was ignored by the parties and no attempt was made to enforce it.

Conclusion

There is no merit to the tenant's claims for compensation pursuant to section 51, or for an order for double that amount and there is no basis for the tenants' claim for payment of the security deposit and pet deposit; the deposits are now held by their new landlord, subject to the provisions of the *Residential Tenancy Act*. The tenant is not entitled to compensation for his time spent bringing a dispute resolution proceeding. The tenants' claims are dismissed without leave to reapply. The landlord is also not entitled to be compensated for his time spent responding to a claim. His application was unnecessary and it 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: September 22, 2015

Residential Tenancy Branch

