



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Urban Heights Developments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF, MNDC, OLC

Introduction

This is an application brought by the tenant requesting the Monetary Order in the amount of \$3414.00 and requesting recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

The landlord testified that she sent evidence to both the Residential Tenancy Branch and to the tenant however the evidence was not sent within the time frame required under the Residential Tenancy Act, and therefore it has not been considered.

I gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Both parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the tenant has the right to an Order for the equivalent of double the rent pursuant to section 51 of the Residential Tenancy Act.

Background and Evidence

Both the landlord and the tenant agree that the monthly rent for this rental unit, at the end of the tenancy, and in him was \$1707.00.

The tenant testified that on December 23, 2013 the landlord gave her a two month Notice to End Tenancy which stated as the reason for ending the tenancy:

- The landlord intends to convert the residential property to strata lots or a nonprofit housing cooperative

The tenant further testified that she vacated the rental unit of February 28, 2014 however it appeared that new tenants moved into the rental unit one month later.

The tenant further testified that the rental unit was then unoccupied for a while and then went on the market and was sold and she does not believe that it was ever converted to strata lots.

The landlord testified that the city had informed them that the house had to be converted back to a two family residence, and therefore, at that time, they decided to convert the rental unit to strata.

The landlord further testified that they fully intended to converted to strata, and that they had architectural drawings produced and submitted an application to the city which was approved; however they subsequently discovered that it was going to be too expensive to convert property to strata due to the low ceilings in the basement area and therefore the decision was made to sell the rental unit.

The landlord therefore believes that, since the notice was given in good faith and steps were taken to accomplish the stated purpose for ending the tenancy, the landlord should not have to pay the penalty listed under section 51.

Analysis

Section 51(2) of the Residential Tenancy Act states:

(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.

Therefore, although I accept the landlords claim that they intended to convert the property to strata, and that steps had been taken to accomplish the stated purpose for

ending the tenancy, section 52(2)(b) clearly states that the compensation must be paid if the rental unit is not used for the stated purpose for at least six months, beginning within a reasonable period after the effective date of the notice.

In this case the rental unit was not used for the stated purpose, and therefore the landlords are required to pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement, which was \$1707.00.

It is my decision therefore, pursuant to section 51 of the Residential Tenancy Act, that the landlords must pay \$3414.00 to the tenant.

It's also my decision that the landlord must bear the cost of the \$50.00 filing fee.

Conclusion

Pursuant to sections 51, 67, and 72 of the Residential Tenancy Act I have issued a Monetary Order in the amount of \$3464.00.

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 13, 2016

Residential Tenancy Branch