



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order for the Landlord’s compliance - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on September 1, 2014 and ended on August 31, 2015 following the issuance and service by the Landlord of a two month notice to end tenancy for Landlord's use. There is no dispute that the Landlord’s stated intention at the time of serving the notice was to move into the unit and the Landlord confirms that this continued to be the intention when they moved into the unit. There is no dispute that the Landlord’s lived in the unit for 5.5 months and then sold the unit.

The Landlord states that they had a good faith intention to live in the unit for one or two years and that due to unplanned events that affected their financial situation they could not afford to live in the unit and so sold it. The unit was advertised on November 20, 2015 and was sold two days later. The Landlord states that the Notice does not carry any reason for its issuance and that the Tenants did not dispute the Notice. The Landlord argues that since there no reason is stated on the Notice the Landlord cannot be liable for using the unit for a different purpose than was orally stated to the Tenants.

The Tenant’s legal counsel argues that there is no requirement for good faith in relation to how the unit gets used after a notice for landlord’s use is issued and acted upon. Legal counsel argues that hardship is not a factor that can be considered and that there

is no discretion to allow consideration of hardship in determining whether the Landlord is obliged to compensate the Tenant for a different use of the unit. Legal counsel argues that notice was provided with an oral purpose stated to the Tenants. The Tenant claims \$3,400.00. The Tenant also claims moving costs. The Tenant was provided with the equivalent of one month rental compensation for August 2015.

Analysis

Section 51(2) of the Act provides that 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 landlord, or the purchaser, as applicable, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement. This section does not incorporate a good faith requirement and there is no policy indicating any such consideration for the determination of whether the Landlord used the unit for the reason the tenancy was ended. Given the undisputed evidence of the Landlord's good faith intention to move into the unit as the reason for issuing the Notice and considering that the Tenant's acted on this reason for the end of the tenancy, I do not consider that the purpose for the Notice was not stated. Given the undisputed evidence that the Landlords resided in the unit for less than 6 months and then sold the unit, I find that the Tenants are entitled to double the rent that was payable of \$3,400.00.

As the Tenant's received the compensation of the equivalent of one months' rent for having been given the Notice, no further costs for moving out of the unit is compensable and I dismiss this claim. As the Tenants' application is primarily successful I find that the Tenants are entitled to their \$50.00 filing fee for a total entitlement of \$3,450.00.

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$3,450.00**. If necessary, 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 28, 2016

Residential Tenancy Branch

