



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF, O

Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions. The tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agreed that this tenancy started on March 01, 2014 for an initial fixed term of one year, thereafter reverting to a month to month tenancy. Rent for this unit was \$1,400.00 per month and was due on the first day of the month.

The tenant attending (GL) testified that the landlord served the tenants with a Two Month Notice to End Tenancy for landlord's use of the property (the Notice) on November 24, 2015. A copy of the Notice has been provided in documentary evidence and has an effective date of February 01, 2016. The reason given on the Notice was that the rental unit will be occupied by the landlord, the landlord spouse, or a close family member of the landlord or the landlord's spouse. The tenant testified that they gave the landlord notice to end the tenancy early and moved from the rental unit on December 31, 2015. On January 19, 2016 the tenants discovered that on January 14, 2016 the landlord had listed the unit for sale. The tenant testified that later the tenants determined that the landlord had accepted an offer on the unit on January 21, 2016 and the sale completed on February 22, 2016. The tenant referred to the title search deed provided in documentary evidence showing the new owner.

The tenant testified that as the unit was not used for the intended purpose as stated on the Two Month Notice the tenants seeks compensation of two months' rent to the amount of \$2,800.00. The tenants also seek to recover the \$100.00 filing fee.

The landlord testified that the intention of the landlord was to live in the unit for six months and try to sell it. The landlord testified that she had previously tried to sell the unit but as she had had difficulties in the past she did not think it would sell so quickly. The landlord agreed the unit was put on the market on January 14, 2016 and that she moved into the unit on January 01, 2016. The landlord testified that previously she had been living in a different city and when she got a job offer in Victoria she decided to move there and live in the unit while it sold. The landlord testified that the Two Month Notice was issued in good faith.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties I find that s. 51 of the *Act* states that if a landlord or purchaser does not take steps to accomplish the stated purpose for ending the tenancy under s. 49 of the *Act* within a reasonable period after the effective date of the notice or the rental unit is not used for that stated purpose for at least 6 months the landlord or purchaser must pay the tenant an amount that is equivalent to double the monthly rent payable under the tenancy agreement.

I find that the unit was sold and the landlord agreed it was her intention to sell the unit and the landlord did put the unit on the market on January 14, 2016 after the tenants had vacated. I am not persuaded by the landlords arguments that her intention was to

live in the unit for at least six months as at the time she put the unit on the market she had no knowledge that it would take at least that long to sell.

The fact remains that the rental suite was not been used for the intended purpose as stated on the Two Month Notice. Consequently, I conclude that the landlord issued the Notice to End Tenancy for landlord's Use of the Property and has failed to use the rental unit for the purpose stated on the Notice. Therefore, I find that the landlord is in breach of s. 49(3) of the *Act*.

I further find that pursuant to s. 51 of the *Act* that the tenants are entitled to compensation to an amount that is equivalent to double the monthly rent payable under the tenancy agreement. If damage or loss results from a party not complying with the *Act*, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party pursuant to s. 67 of the *Act*. As such I find the tenants are entitled to a Monetary Order to the amount of **\$2,800.00**.

As the tenants have been successful in this matter, they are also entitled to recover their **\$100.00** filing fee pursuant to section 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$2,900.00**. The Order must be served on the landlord. Should the landlord fail to comply with the Order the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: August 11, 2016

Residential Tenancy Branch

