



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Aquilini Properties LP
Advent Real Estate Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenant's application for compensation pursuant to section 51 of the *Residential Tenancy Act* in an amount of double the monthly rent payable under the tenancy agreement and for additional amounts for compensation. The hearing was conducted by conference call. The tenant called in and participated in the hearing. Also attending was the representative of the former landlord. The named landlord, Aquilini Properties LP was acting as the property manager and agent for the owner of the rental unit. The rental agent for the current owners of the rental unit and the owner of the unit who is not named in the application but who is named as a witness called in and participated in the hearing.

Issue(s) to be Decided

Is the tenant entitled to compensation pursuant to section 51 of the *Residential Tenancy Act*?

Is the tenant entitled to any additional compensation?

Background and Evidence

The rental unit is a strata title apartment in Vancouver. The tenancy began April 1, 2011 for a one year term and thereafter on a month to month basis. The monthly rent was \$1,580.00.

On August 28, 2015 the tenant was served with a two month Notice to End Tenancy for landlord's use. The Notice was dated August 28, 2015 and it required the tenant to move out of the rental unit by October 31, 2016. The Notice to End Tenancy was given by the corporate owner of the rental unit c/o the landlord, Aquilini Properties LP. The stated reason for the Notice to End Tenancy was that all the conditions for sale of the

rental unit had been satisfied and the purchaser asked the landlord in writing to give the Notice because the purchaser, or a close family member, intended in good faith to occupy the rental unit.

The tenant moved out pursuant to the Notice to End Tenancy. Neither the purchaser nor a close family member moved into the rental unit; instead it was advertised for rent for an amount one third greater than the rent paid by the tenant. The respondent Advent Real Estate Services Ltd. acted as the landlord and agent for the purchaser of the property. The tenant said that she was unable to get the seller of the rental unit or the agent for the new owner to disclose the identity of the purchaser.

The tenant named the former landlord and property manager and the current property manager as respondents in this proceeding.

The purchaser called in and participated in the hearing. The purchaser is a Canadian citizen, but she lives in the U.K. She is a lawyer and familiar with the provisions of the *Residential Tenancy Act*. During the hearing I pointed out to the purchaser that, pursuant to section 49 (5) and section 51 (2) of the *Residential Tenancy Act*, she, as purchaser, is a proper party to this proceeding and potentially liable to pay compensation to the tenant pursuant to section 51. The purchaser refused to agree to be added as a respondent to the proceeding so that the issue could be adjudicated. She did agree that she could be served with a new application naming her as a respondent by serving Advent Real Estate Services Ltd., her agent in Vancouver managing the rental unit and that service upon her agent would constitute valid and sufficient service upon the purchasers, whose names have now been disclosed to the applicant.

Analysis

The documentary evidence presented at the hearing established that the tenant's landlord served the tenant with a two month Notice to End Tenancy in reliance upon the written request to do so, given by the purchasers of the rental unit. The tenant's application for a monetary award is dismissed with leave to reapply because it failed to name the purchasers as respondents. The purchaser refused to consent to be added as a party to the proceeding before me. The purchasers, Ms. A.D. and Mr. D.K. are proper parties to be named as respondents in a new proceeding.

The purchasers may be served with a new application and Notice of Hearing by delivering the documents to the office of Advent Real Estate Services Ltd and obtaining

an acknowledgement of receipt, or by sending them by registered mail to the purchasers' agent, Advent Real Estate Services Ltd.

The applicants and the intended respondents are encouraged to discuss the resolution of this matter without resorting to a further application and hearing. I pointed out during the hearing that good faith on the part of a purchaser is only a relevant consideration when a tenant has applied to dispute a Notice to End Tenancy. Pursuant to section 51, compensation is payable, regardless of intention if the property has not been used for the purpose stated in the Notice to End Tenancy. With respect to the tenant's claims, they will likely be limited to the statutory remedy of two months' rent provided by section 51.

Conclusion

The tenant's application is dismissed with leave to reapply. The purchasers have consented to be served with a new proceeding through their agent and property manager as noted above.

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, 2016

Residential Tenancy Branch