



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, DRI, CNL MNSD, OLC, PSF, LRE, FF*

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for landlord's use of property. The tenant also applied for a monetary order for compensation pursuant to section 51 and for various other remedies. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The landlord acknowledged receipt of evidence submitted by the tenant. Both parties gave affirmed testimony.

The tenant moved out of the rental unit on September 02, 2016 and therefore most of the remedies that the tenant applied for are moot and dismissed. Accordingly, this hearing only dealt with the tenant's application for compensation and for the recovery of the filing fee.

At the time the tenant made this application she had named the current owner of the rental unit (TM), the previous owner (HK) and his manager (LB) as respondents. On September 20, 2016, the tenant amended her application to name the new owner/current landlord(TM) as the only respondent.

Issues to be Decided

Is the tenant entitled to compensation and to the recovery of the filing fee?

Background and Evidence

The tenancy started on July 01, 2015 and ended pursuant to a notice to end tenancy for landlord's use of property dated June 30, 2016. The monthly rent was \$950.00 due on the first of each month. The tenant filed a copy of the two page notice which was signed by the tenant in acknowledgement of having received the notice on August 16, 2016. The effective date of the notice was August 31, 2016.

The reasons for the notice were:

1. The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.
2. All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord in writing, to give this notice because the purchase or a closed family member intends in good faith to occupy the rental unit.

The landlord MK, agreed that he had entered into a contract to purchase the property effective September 01, 2016. The landlord stated that a term of the purchase agreement required the house to be vacant as he, intended to move into the house.

Based on this request from the then purchaser and now landlord of the rental unit TM, the previous owner/landlord HK served the tenant with a notice to end tenancy for landlord's use of property. The tenant stated that the notice was served on August 16, 2016 with an effective date of August 31, 2016.

The tenant stated that she went through a real difficult time trying to find a place to move to, in the limited time left until the effective date of the notice. The tenant disputed the notice in a timely manner. On August 25, 2016, the tenant received an email from TM, the new owner with a proposal offering the tenant the opportunity to rent the unit at a higher rent. The tenant filed a copy of this email. The tenant also filed a copy of the advertisement TM placed on line, advertising the availability of the rental unit effective September 05, 2016. The advertisement is dated August 25, 2016.

The tenant stated that HK and his manager assisted her in finding a place and physically helped to move into the new rental unit. The tenant stated that HK gave her the last month of stay rent free and even helped her with the cost of moving.

The landlord TM stated that he intended to move into the house but for personal reasons was unable to. TM agreed that he had advertised for a new tenant after the offer to the tenant did not materialise. The landlord informed me that HK (the previous owner/landlord) had compensated the tenant adequately for the rushed move and also for the last month of rent free stay.

The tenant moved out on September 02, 2016. The tenant seeks an amount equal to double the monthly rent as compensation from the landlord for not complying with the two month notice to end tenancy plus the filing fee of \$100.00.

Analysis

Pursuant to Section 51 of the *Residential Tenancy Act*, a tenant who receives a notice to end tenancy under Section 49 which is for landlord's use of property and 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, the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

In this case, the tenant received the notice to end tenancy for landlord's use of property under Section 49. The notice indicated that the purchaser of the rental unit intended in good faith to occupy the rental unit. Based on the testimony of both parties and the evidence filed by the tenant, I find that the purchaser did not intend to occupy the rental unit. The actions of the purchaser/landlord which include advertising the availability of the unit prior to the date that the tenancy was due to end and offering the unit to the tenant at an increased rent indicate that he intended to re rent the unit and not move into it himself.

Since the unit was not used for the stated purpose, I find that the landlord must pay the tenant \$1,900.00 which is the equivalent of double the monthly rent. The tenant has proven her case and is entitled to the filing fee of \$100.00.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of \$2,000.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$2,000.00**.

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: October 21, 2016

Residential Tenancy Branch