



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, MNDC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of the others documentary evidence. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Issue

The tenant had filed to dispute the 2 Month Notice to End Tenancy for Landlords Use of Property. The tenant no longer lives on the property; accordingly I dismiss this portion of his application.

Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of two months' rent as claimed?
Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenant gave the following testimony. The tenancy began on August 1, 1996 and ended on August 31, 2015. The monthly rent was \$1100.00. On June 11, 2015 the landlord served the tenant with a two month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenant to move out of the rental unit by August 31, 2015, which he did. The ground for the Notice was that "*All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit*". The tenant moved out of the rental but later discovered that the landlord did not move into the rental unit; instead found a listing that the house was for rent as of September 7, 2015. The tenants submitted documents in support of their application, including a copy of the listing that shows the home for rent.

The landlords' agent gave the following testimony. The agent testified that her brother was intending to move in and did so for about two months but "wanted to make money" and rented the home to a family for November 1, 2015. The agent testified that she wasn't aware they had to use the property for the intended purpose for six months as noted in the Notice to End Tenancy.

Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (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.

The applicant seeks payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the

property was not used for the stated purpose for ending the tenancy. In the landlords agent own testimony she acknowledges and concedes that they did not act in accordance with what the basis of the notice stated. I accept the agents testimony that they were unaware of the provision and that they meant no malice, however that does not relieve them of their responsibilities and obligations under the Act. The tenant has been successful in his application.

The Act provides that compensation is payable, regardless of intention 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. I am satisfied that the tenant is entitled to $\$1100.00 \times 2 \text{ months} = \2200.00 plus the recovery of the \$100.00 filing fee for a total award of \$2300.00.

Conclusion

The tenant has established a claim for \$2300.00. I grant the tenant an order under section 67 for the balance due of \$2300.00. 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: February 07, 2017

Residential Tenancy Branch