



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for compensation under the Act and to recover the filing fee from the landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to compensation under the Act?

Background and Evidence

The tenancy began April 2013. Rent in the amount of \$450.00 was payable on the first of each month. The tenant vacated the premises on May 1, 2016.

The parties agreed the tenant was served with a two month notice to end tenancy for landlord's use of property issued on March 31, 2016. The parties agreed the tenant accepted the notice and moved from the rental unit on May 1, 2016

The tenant testified that the landlord failed to occupy the premises as stated in the Notice. The tenant stated that the property was listed for sale and they believe sold in July 2016.

The landlord testified that they intended to move into the basement unit and have their brother live in the upper portion of the premises. The landlord stated that their brothers

plans changed and they had to look at all their financial options. The landlord stated that they decided to sale the home, which the sale completed in September 2016.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Tenant's compensation: section 49 notice

- 51 (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.

In this case, the property was premises was sold during the six month period after the effective date of the notice and not used for the stated purpose for ending the tenancy as required by the Act.

Section 51(2)(b) provides that if a landlord does not comply with section 51 of the Act the landlord must pay the tenant the equivalent of double the monthly rent payable under the tenancy agreement. The legislation does not provide any flexibility on this issue.

Therefore, I find the landlord has breached the Act, and the tenant is entitled to compensation of double the monthly rent under the terms of the tenancy agreement.

Conclusion

Having made the above findings, I must order, pursuant to section 51 and 67 of the Act, that the landlord pays the tenant the sum of **\$1,000.00**, the equivalent of double the monthly rent (\$450.00) and \$100.00 to recover the filing fee from the landlord.

The tenant is given a formal order in the above terms and the landlord must be served with a copy of this order as soon as possible. Should the landlord fail to comply with this order, the order may be filed in the small claims division of the Provincial 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 15, 2017

Residential Tenancy Branch