



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEY PACIFIC PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNL, MT, OLC, *MNDC*, *FF*

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for landlord's use of property and for more time to do so. The tenant also applied for a monetary order for compensation for loss under the *Act* and for the filing fee.

The tenant served the landlord with the notice of hearing by registered mail on October 17, 2016. The tenant obtained the landlord's address in a text message from the landlord. The tenant filed a copy of the tracking slip. Despite having been served with the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

At the start of the hearing, the tenant informed me that he had moved out on August 31, 2016. Since the tenancy has ended the tenant's application to cancel the notice to end tenancy and for more time to do so is moot and accordingly dismissed.

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 December 01, 2013 and ended on August 31, 2016, pursuant to a notice to end tenancy for landlord's use of property dated June 09, 2016. The rent at the end of the tenancy was \$1,333.00 due on the first of each month.

On June 09, 2016, the landlord served the tenant with a notice to end tenancy for landlord's use of property. The effective date of the notice was September 15, 2016. The reason for the notice was that the landlord had all the permits and approvals required by law, to renovate the rental unit in a manner that required the rental unit to be vacant.

The tenant asked the agent of the landlord about the reason for the notice to end tenancy and the type of renovation the landlord intended to carry out. The tenant filed a copy of the email conversation. The manager replied as follows:

"We are hired and therefor are required to follow directives given to us by the Owner. They are not required to give us a detailed list/plan of their intentions as they are the Owners."

The tenant accepted the manager's answer and moved out without disputing the notice. The tenant stated that in the last month of tenancy a tradesperson came into the rental unit to provide the landlord with the cost of removing carpet and replacing it with laminate. The tenant spoke with the tradesperson and found out that it would take approximately a week to do this and the unit did not have to be vacant.

The tenant stated that shortly after he moved out, the landlord started advertising the availability of the rental unit. The tenant filed copies of an advertisement dated September 16, 2016 that advertised the unit for rent at a monthly rent of \$1,795.00 and available for October 01, 2016.

The tenant stated that during the tenancy the landlord had attempted to increase the rent by an amount that was not in compliance with the *Act*. The tenant pointed it out and the landlord amended the increase to an amount in keeping with legislation. The tenant stated that he gathered from the advertisement and the landlord's attempt to increase the rent unlawfully, that the landlord served him with a notice to end tenancy in order to rent the unit for a considerably higher rent.

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 for landlord's use of property.

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 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, 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 landlord had permits in hand to renovate the unit in a manner that required the rental unit to be vacant.

Based on the testimony of the tenant and documents filed into evidence by the tenant and in the absence of any contradictory evidence I find that it is possible that the landlord did not have or need permits for the extent of the renovation that the tenant testified about. In addition the landlord started advertising the unit 15 days after the tenant moved out for a rent that was considerably higher than the rent that this tenant was paying.

The actions of the landlord which include advertising the availability of the unit within 15 days after the tenant moved out and an attempt to increase rent in an unlawful manner, indicate that on a balance of probabilities it is more likely than not that the landlord served the notice to end tenancy because he intended to re rent the unit at a higher rent. It is also possible that the renovations that were done could have been done without requiring the unit to be vacant.

Based on the above, I find that the landlord must pay the tenant \$2,666.00 which is the equivalent of double the monthly rent. The tenant has proven his 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 \$2,766.00. 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 **\$2,766.00**.

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: April 05, 2017

Residential Tenancy Branch