



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC RPP FF

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The respondent did not attend this hearing, although I waited until 1:45 p.m. in order to enable the respondent to connect with this teleconference hearing scheduled for 1:30 p.m. The tenants attended the hearing and were given a full opportunity to provide testimony, to present evidence and to make submissions.

The tenants testified that on October 9, 2016, they sent a copy of the Application for Dispute Resolution and Notice of Hearing to the respondent by registered mail. And subsequently on March 9, 2017, they sent a copy of a 21 page evidence package also by registered mail. Registered mail tracking numbers were provided in support of service.

Based on the above evidence, I am satisfied that the respondent was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the respondent.

During the hearing, the tenants advised they were withdrawing their claim for the return of or compensation for loss of personal property. The tenants also withdrew any claim associated with the costs of filing the application aside from the filing fee.

Issues

Are the tenants entitled a monetary order for compensation for damage or loss?
Are the tenants entitled to recover the filing fee for this application from the respondent?

Background & Evidence

The tenancy began approximately 15 months ago. The monthly rent towards the conclusion of this tenancy was \$1150.00.

On March 9, 2016, the landlord served the tenants with a 2 Month Notice to End Tenancy with an effective date of May 31, 2016. The ground for issuing the Notice was that the property had been sold and the purchaser intends to occupy the rental unit.

The tenants vacated the rental unit on May 31, 2016 in accordance with the Notice.

The tenants are claiming an amount equivalent to double the monthly rent as compensation for the respondent (purchaser) did not occupy the rental unit as per the 2 Month Notice to End Tenancy.

In support of their claim the tenants submitted a copy of a Craigslist advertisement posted in August 2016 and a copy of an e-mail response to an inquiry about the advertisement indicating the house was available for rent immediately.

Analysis

Section 51 (2) of the Act provides that if 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 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.

I find that on a balance of probabilities the respondent (purchaser) has not moved into the rental unit as intended according to the 2 Month Notice. I make this finding as the uncontested evidence of the tenants' supports their claim that the respondent is attempting to re-rent the rental unit as of August 2016. The effective date of the Notice was May 31, 2016 which was less than 3 months prior to the Craigslist posting. As such the respondent did not move into the rental unit for at least 6 months as required under the Act.

I allow the tenants claim for an amount equivalent to double the monthly rent and award an amount of \$2300.00, which is double the monthly rent of \$1150.00.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application from the respondent for a total monetary award of \$2400.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenants a Monetary Order in the amount of \$2400.00. Should the respondent fail to comply with this Order, this 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: April 10, 2017

Residential Tenancy Branch