



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC 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;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord acknowledged receipt of the tenants' application. During the hearing, the landlord made reference to evidence that was submitted to the Residential Tenancy Branch on the day of the hearing. This evidence was not before me at the time of the hearing nor was a copy provided to the applicant tenant. The landlord explained he was under the impression that it was an in person hearing so he did not submit the evidence beforehand. This evidence was not accepted or considered in the making of this decision.

Issues

Is the tenant entitled a monetary order for compensation for damage or loss?
Is the tenant entitled to recover the filing fee for this application from the landlord?

Background & Evidence

The tenancy began in approximately October 2015 with a monthly rent of \$1500.00 payable on the 1st day of each month. The tenant was already occupying the rental unit when the landlord purchased the property on December 31, 2015.

On January 4, 2016, the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property with an effective date of March 8, 2016. The ground for ending the tenancy as per the 2 Month Notice was the landlord or a close family member would be occupying the rental unit.

The tenant vacated the rental unit on February 1, 2016. The tenant's application was filed on December 2, 2016.

The tenant is claiming an amount equivalent to double the monthly rent as compensation for the landlord not using the rental property for the purpose stated in the 2 Month Notice.

In support of his claim the tenant testified that the rental unit has been sitting vacant from the date he vacated until the date he filed which is well over 6 months.

The landlord testified the rental unit has been sitting vacant as he had to wait a long time before getting permits to demolish the rental unit. The landlord testified he had to have hazardous waste material testing performed which required the unit to be vacant.

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 the landlord or a close family member has not occupied the rental unit within a reasonable period after the effective date of the 2 Month Notice. The landlord did not issue the 2 Months' Notice on the grounds of intending to demolish the rental unit which requires necessary permits to be in place at the time of issuing the Notice. Rather, the landlord issued the Notice on the grounds that he or a close family member would be occupying the rental unit. The landlord cannot now argue that he was not able to get permits to demolish the rental unit due to the requirement to get hazardous waste testing performed. If the 2 Month Notice had been issued on the grounds of demolishing the rental unit then perhaps I may have been able to entertain the landlord's argument that he has not been able to get permits until hazardous waste testing was completed.

I allow the tenants claim for an amount equivalent to double the monthly rent and award an amount of \$3000.00, which is double the monthly rent of \$1500.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$3100.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$3100.00. Should the landlord 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: June 05, 2017

Residential Tenancy Branch