



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FRASER PROPERTY MANAGEMENT REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

On January 20, 2017, The Tenants filed for a monetary order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, and to recover the cost of the filing fee. The Tenants amended the monetary amount of their application on January 25, 2017. The matter was scheduled as a teleconference hearing.

The Tenants and the purchaser of the rental property attended the hearing. The Landlord Mr. R.W. did not attend. The Tenant, Mr. S.B. testified that he sent a Notice of Hearing to the Landlord on January 26, 2017, using registered mail. The Tenant provided a copy of the registered mail receipt. I find that the Landlord was served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

The hearing process was explained and the parties in attendance were asked if they had any questions. The parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Are the Tenants entitled to compensation under the Act, Regulation, or tenancy agreement?

- Are the Tenants entitled to recover the cost of the filing fee?

Background and Evidence

The Tenants testified that the tenancy began in August 2010. Rent in the amount of \$1,500.00 was due to be paid to the Landlord on the first day of each month.

The Tenant testified that the Landlord issued a 2 Month Notice To End Tenancy For Landlord's Use Of Property to the Tenants on June 20, 2016 ("the 2 Month Notice").

The 2 Month Notice states:

All of the conditions for the 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 to in good faith to occupy the rental unit.

The Tenants accepted the 2 Month Notice and moved out of the rental unit on August 31, 2016.

The Tenant testified that he received compensation of month of rent from the Landlord.

The Tenant testified that the purchaser of the property did not use the rental unit for themselves or a family member. The Tenants are seeking compensation from the purchaser for the following items:

- | | |
|-----------------------|-------------|
| • Moving Truck Rental | \$139.75 |
| • Stolen Property | \$ 8,615.00 |
| • Gas Costs | \$654.69 |
| • Breach of the Act | \$3,000.00 |

Moving Truck Rental \$139.75

The Tenants are seeking \$139.75 for the cost of renting a truck to move their possessions. The Tenant testified that the purchaser of the property should be responsible to pay for this cost because he did not use the property for the reason stated within the 2 Month Notice.

In response, the owner's agent submitted that the owner of the property is not responsible to pay for the cost of the truck rental.

Stolen Property \$8,615.00

The Tenant testified that in the process of moving out he returned to the rental unit to find there had been a break in. He testified that many of his possessions were stolen. The Tenant testified that the purchaser of the rental property should be responsible to pay for the cost of replacing the stolen property because he did not use the property for the reason stated within the 2 Month Notice.

The Tenant testified that he did not have house or contents insurance.

In response, the owner's agent submitted that the owner of the property is not responsible to pay for the Tenants' stolen items.

Gas Costs \$654.69

The Tenant testified that he is seeking to recover the cost of gas for moving. The Tenant testified that the purchaser of the rental property should be responsible to pay for the cost of gas for moving, because he did not use the property for the reason stated within the 2 Month Notice.

In response, the owner's agent submitted that the owner is not responsible to pay for the gas costs.

Compensation for breach of section 51

The Tenant testified that the Landlord did not use the property for himself or for family, as stated within the 2 Month Notice, but instead advertised the rental unit and re-rented it to a new tenant.

The Tenant testified that he left a message on the door of the unit within two weeks of moving out stating that he was interested in renting the unit. He testified that the purchaser and the property manager called him to discuss renting the property.

In response, the owner's agent made submissions on behalf of the purchaser. He submitted that the purchaser signed a document that said he would be moving into the rental unit on the possession date. He testified that the purchaser moved into the rental unit on August 31, 2016 and lived there for one month.

The owner's agent testified that the purchaser found the commute to get to work was too far, so he decided to move out and re-rent the property. He testified that an advertisement was placed on a local website and a new tenant was found for November 2016.

The owner's agent submitted that the owner opposes the Tenants' claim for compensation.

Analysis

Section 51 (2) of the Act states:

*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.*

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

Compensation for Breach of Section 51 of the Act

I find the purchaser failed to use the rental property for the stated purpose in the 2 Month Notice for at least 6 months. The purchaser lived in the unit for 1 month and re-rented the unit to a new tenant in November 2016.

Pursuant to section 51(2) of the Act, the purchaser must pay the Tenant the equivalent of double the monthly rent payable under the tenancy agreement.

I find that the purchaser owes the Tenants the amount of \$3,000.00.

Stolen Property; Moving Truck Rental; and Gas Costs

The Act does not specifically permit additional compensation to be awarded when a purchaser of a property does not use the property for the stated purpose in the Notice for at least 6 months. The Act specifically allows compensation of double the monthly rent payable under the tenancy agreement if the rental unit is not used for the stated purpose for at least 6 months.

I have already awarded the Tenant compensation of double the monthly rent for the purchaser's breach of section 51 of the Act. The Tenant's request for compensation for moving costs, gas costs and stolen property is dismissed.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the respondent to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

I grant the Tenants a monetary order in the amount of \$3,100.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Respondent is cautioned that costs of such enforcement are recoverable from him.

Conclusion

The purchaser did not use the rental unit for the stated purpose within the 2 Month Notice. The purchaser must pay the Tenants the amount of two months' rent payable under the tenancy agreement.

The Tenant is granted a monetary order in the amount of \$3,100.00.

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: July 10, 2017

Residential Tenancy Branch