



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, OLC

Introduction

The Application for Dispute Resolution filed by the Tenants seeks the following:

- a. A monetary order in the sum of \$9000
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord resides on April 8, 2017. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to a monetary order and if so how much?
- b. Whether the tenants are entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a month to month tenancy agreement that provided that the tenancy would start on January 1, 2016. The rent was \$3000 per month payable on first day of each month. The tenant(s) paid a security deposit of \$1500 at the start of the tenancy.

On January 20, 2017 the landlord served a 2 month Notice to End Tenancy in the approved government form on the Tenants. The grounds on the Notice provided that "The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant."

On January 27, 2017 the tenants gave the landlord a 10 day notice that they would be ending the tenancy on February 6, 2017 as permitted by section 50 of the Residential Tenancy Act. The tenants paid the rent for the first 6 days of February 2017.

The tenants submit the landlord was not acting in good faith and he failed to take steps to accomplish the stated purpose based on the following:

- The landlord failed to take steps to renovate or repair the rental unit.
- He placed an advertisement on Craigslist on February 2, 2017 looking for new tenants for February 15, 2017. The rent in the advertisement was increased from \$3000 to \$3500.
- The tenants testified they understand the landlord is receiving a rent higher than the \$3500 advertised.
- There was a dispute between the parties about the shoveling of snow.

The landlord testified the tenants failed to properly maintain the property. In particular they failed to sufficiently heat the property and the pipes froze. He testified that he did not renovate the property. A new tenant moved in on February 15, 2017.

The Law

Section 51 of the Residential Tenancy Act provides as follows:

Tenant's compensation: section 49 notice

51 (1) A tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

- (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.

Monetary Order and Cost of Filing fee

With respect to each of the Tenants claims I find as follows:

- a. I determined the Tenants are entitled to the equivalent of one month rent or the sum of \$3000 under section 51(1) of the Act. The landlord served a 2 month notice. The tenants gave a 10 day notice ending the tenancy and the rent to February 6, 2017 as they are entitled to do. The Act provides that in a situation like this the landlord must pay to the Tenant the equivalent of one month rent or the sum of \$3000.
- b. In addition I determined the Tenants are entitled to the equivalent of 2 months rent under section 51(2) of the Act. The landlord failed to take steps to accomplish the stated purpose for ending the tenancy within a reasonable period of time after the effective date of the notice. I determined the landlord failed to take steps to demolish, renovate or repair the rental unit. The landlord re-rented the rental unit within 9 days of the tenants vacating for a higher rent of at least \$500 per month than what the tenants paid. As a result the tenants are entitled to an additional double the monthly rent or the sum of \$6000.

In summary I ordered the landlord(s) to pay to the tenant the sum of \$9000 plus the sum of \$100 in respect of the filing fee paid for a total of \$9100.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent 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: September 06, 2017

Residential Tenancy Branch