



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HALOSTAR DEVELOPMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, O

Introduction

This hearing dealt with the tenants' 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; and
- other relief.

Both parties attended and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The two principals of the corporate landlord attended and were primarily represented by counsel MC (the "landlord").

As both parties were in attendance I confirmed that there were no issues with service of the tenant's application for dispute resolution and evidentiary materials. The landlord confirmed receipt of the tenant's materials. The tenant confirmed receipt of the landlord's evidence package. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with copies of the tenant's application and the tenant was served with the landlord's evidence..

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Background and Evidence

The parties confirmed the following facts. This tenancy began sometime in 1999. The tenant was paying a monthly rent of \$700.00 at the end of the tenancy. A 2 Month Notice to End Tenancy for Landlord's Use (the "2 Month Notice") was issued by the previous landlord in May, 2015. A copy of the 2 Month Notice was submitted into written evidence. The reason provided on the 2 Month Notice is that "All of the conditions for 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 in good faith to occupy the rental unit."

The landlord testified that the rental unit was situated on lands that were purchased for the purpose of development. The landlord said that there was never an intention to occupy the rental unit. The landlord submitted into written evidence a copy of a letter issued to the previous landlord dated May 11, 2015. The letter requests that the property be vacant but does not state that the purchaser intends to occupy the rental property. The parties confirmed that the property has been demolished and is being developed for new residential developments.

The tenant testified that she vacated the rental unit in August, 2015. The tenant said that because of the end of the tenancy she has incurred costs for moving, storage of items and loss of some items she was not able to move out of the rental unit.

Analysis

Section 51(2) of the *Act* states 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.

In the 2 Month Notice the previous landlord indicated that the tenancy is ending as they were informed by the purchaser (the landlord) that they or a close family member intends to occupy the rental unit. The landlord testified, that was never the intention and no written request was made giving that information to the seller. Nevertheless, that was the reason stated on the 2 Month Notice issued to the tenant.

I accept the undisputed evidence of the parties that the landlord has not taken steps to accomplish the stated purpose for ending the tenancy. Therefore, the tenant is entitled to a monetary award of \$1,400.00, double the amount of the monthly rent.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established,

the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I find there is insufficient evidence in support of the tenant's claim for a monetary award for the cost of moving, storage and personal items. The tenant was unable to provide detailed information about what items she believes were lost at the rental property. No evidence was provided about the cost of moving or storage. Furthermore, there is insufficient evidence to find that these are costs that arise due to a breach of the Act, regulations or tenancy agreement. The previous landlord issued a valid 2 Month Notice. The parties testified that the tenant was allowed to remain in the rental unit for several days after the end of tenancy date indicated on the 2 Month Notice. While moving can be costly stressful, especially after a lengthy tenancy, there is insufficient evidence to find that the tenant's costs were a result of any breach by the landlord. Consequently, I dismiss this portion of the tenant's claim.

Conclusion

I issue a monetary order in the tenant's favour in the amount of \$1,400.00. The landlord must be served with this Order as soon as possible. Should the landlord 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: October 31, 2017

Residential Tenancy Branch