



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, CNL, OLC and FF

Introduction

This hearing was convened in response to the Tenant's application for a monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (Act), regulation or tenancy agreement, for an Order requiring the Landlords to comply with the Act, to cancel a Notice to End Tenancy, and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution. At the hearing the Tenant stated that he did not intend to apply to cancel a Notice to End Tenancy and that matter is, therefore, not being considered at these proceedings.

The Tenant stated that on May 16, 2017 the Application for Dispute Resolution and the Notice of Hearing were personally served to the female Landlord. The Landlords acknowledged receipt of these documents.

On October 03, 2017 the Landlords submitted 18 pages of evidence to the Residential Tenancy Branch. The male Landlord stated that this evidence was served to the Tenant, via registered mail, on October 03, 2017. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On October 03, 2017 the Tenant submitted 20 pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlords, via registered mail, on September 25, 2017. The Landlords acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

Preliminary Matter

The female Landlord exited the teleconference without notice approximately 27 minutes into the hearing. The male Landlord stated that he was prepared to proceed in the absence of the female Landlord.

Issue(s) to be Decided

Is the Tenant is entitled to compensation pursuant to section 51(2) of the *Act* because steps were not 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 was not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice.

Background and Evidence

The Landlords and the Tenant agree that this tenancy began in 2011 and that the Tenant was paying monthly rent of \$1,100.00 at the end of the tenancy.

The Landlords and the Tenant agree that the Landlords served the Tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property in January of 2017. The parties agree that this Notice declared that the Tenant must vacate the rental unit by March 31, 2017 and that the unit was vacated on April 01, 2017.

The Landlords and the Tenant agree that the Two Month Notice to End Tenancy for Landlord's Use of Property declared that the tenancy was ending because 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 of the purchaser intends in good faith to occupy with rental unit.

The male Landlord stated that the Landlords entered into an unconditional agreement to sell the residential property to a relative, which was signed in early September of 2017. This agreement was not submitted in evidence. The Tenant did not dispute this evidence.

The male Landlord stated that the original completion date of the sale of the property was May 01, 2017. He stated that on April 24, 2017 the completion date of the property was changed to December 15, 2017. The Landlords submitted a contract of Purchase

and Sale Addendum, which changes the completion date to December 15, 2017. The Tenant did not dispute this evidence.

The Landlords submitted a copy of a letter, dated April 24, 2017, in which the purchaser expressed his desire to delay the completion date and in which he asked if he could rent the property until the completion date of the sale. The Tenant did not dispute this evidence.

The male Landlord stated that the purchaser asked for vacant possession of the rental unit, although he did not tell him why he wanted vacant possession. The Landlords submitted a letter from the purchaser, dated September 01, 2016, in which the purchaser declares he “would like to have empty possession”.

The male Landlord stated that he rented the rental unit to the purchaser; that the purchaser was provided with keys to the property on April 01, 2017, and “control” of the property was passed onto the purchaser at that time. The Landlords submitted a copy of a tenancy agreement between the female Landlord and the purchaser, which is effective May 01, 2017. The Tenant did not dispute this evidence.

The Tenant stated that he has seen the Landlord and the purchaser on the residential property on at least two occasions since the tenancy ended. The Landlords did not dispute this evidence.

The Tenant stated that in early April of 2017 he noticed the rental unit was advertised on a popular website. Copies of those advertisements were submitted in evidence. The male Landlord stated that he presumes the purchaser placed these advertisements, although he did not speak with him about them.

The Tenant stated that he lives nearby the rental unit and he has observed two separate families living on the residential property, which has two separate suites. He stated that the purchaser is not living on the property.

The male Landlord stated that the father of the purchaser advised him that both suites on the property were rented to third parties and that the purchaser is not living on the property. He stated that he does not know who is living on the property.

I note that both parties testified regarding conversations they had regarding the sale of the property which have not been referenced here, as they are not relevant to my decision.

Analysis

On the basis of the undisputed evidence, I find that the Tenant was paying monthly rent of \$1,100.00 at the end of this tenancy.

On the basis of the undisputed evidence that the sale of the residential property has still not completed, I find that the Landlords still own the rental unit and are still the Landlords of the rental unit, albeit they have now rented it to the purchaser of the residential property.

On the basis of the undisputed evidence, I find that the Tenant was served with a Two Month Notice to End Tenancy, served pursuant to section 49 of the *Act*, which required him to vacate the rental unit by March 31, 2017.

On the basis of the undisputed evidence, I find that the Notice to End Tenancy declared that the tenancy was ending because 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 of the purchaser intends in good faith to occupy with rental unit.

On the basis of the undisputed evidence, I find that the rental unit and a second suite in the residential property have been rented to third parties. I note that there is no evidence to show that the purchaser or a close family member of the purchaser is occupying the rental unit or the second suite.

Section 51(2)(a) of the *Act* stipulates that if steps were not 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 was 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 must pay the Tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

As there is no evidence to show that the purchaser or a close family member of the purchaser has taken reasonable steps to occupy the rental unit and/or has not occupied the rental unit for a period of at least six months, I find that the Landlord must pay the Tenant \$2,200.00, which is the equivalent of double the monthly rent.

I note that it is irrelevant that the purchaser did not tell the Landlords why he wanted vacant possession. Regardless of why the purchaser wanted vacant possession, the

Landlords are subject to the penalty imposed by section 51(2)(a) of the *Act* because steps were not taken to accomplish the stated purpose for ending the tenancy under section 49 of the *Act*.

I find that the Tenant's application has merit and that he is entitled to recover the cost of filing this Application for Dispute Resolution from the Landlord.

Conclusion

I find that the Tenant has established a monetary claim of \$2,300.00, which is comprised of \$2,200.00 for compensation pursuant to section 51(2)(a) of the *Act* and \$10.00 in compensation for the cost of filing this Application.

Based on these determinations I grant the Tenant a monetary Order in the amount of \$2,200.00. In the event that the Landlords do not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of the 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 18, 2017

Residential Tenancy Branch