



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF, OLC, MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord was represented by an agent. Both parties acknowledged receipt of each other's documentary evidence. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of two months' rent as claimed?
Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenancy began in the spring of 1999 and ended on August 16, 2016. The monthly rent was \$2400.00. The tenants testified that they received a Two Month Notice to End Tenancy for Landlords Use of Property. The tenants testified that the notice was dated May 31, 2016 with an effective date of July 31, 2016; however they did not receive the notice until June 3, 2016. The tenants testified that the noticed was issued on the basis,

- *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 tenants testified that because the notice was served late they were entitled to remain until August 31, 2016. The tenants testified that they came to an agreement with the previous owner to move out on August 15, 2016.

As part of their agreement they both signed a Mutual Agreement to End a Tenancy and received \$15000.00 for being out of the unit on August 15, 2016. The tenants testified that that agreement is separate from this application. The tenants testified that the new owners did not move in as they stated on the notice and did not act in good faith. The tenants testified that they are still entitled to two months' rent as compensation for moving out as per the notice they were served and that the cash settlement is not related.

The landlords' agent gave the following testimony. The agent testified that the previous owner did not discharge his duties as part of the sale agreement with the purchasers as required. The agent testified that the previous owner ran the risk of breaching the sales agreement and did what he could to execute the contract. The agent testified that the notice was no longer valid as the tenants came to an agreement with the previous owner and were compensated well above what the Act requires. The agent testified that it doesn't matter whether the new owner lived in the home. The agent testified that the mutual agreement to end the tenancy was signed on July 18, 2016 thereby replacing any notices or termination date of the tenancy.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings are set out below.

The applicant seeks payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to Section 51 of the Act because the property was not used for the stated purpose for ending the tenancy.

The tenants are of the view that they vacated the unit on the basis of the Two Month Notice to End Tenancy for Landlords Use of Property. I do not agree with their view. Its' clear from the testimony and the documentation that the tenants and former owner of the home came to an agreement whereby the tenants agreed to move out by noon on August 15, 2016 because of a Mutual Agreement to End a Tenancy. Both parties signed the document. I find that the tenants moved out in response to that agreement, not from the Two Month Notice to End Tenancy for Landlords Use of Property.

Based on the above, the tenants' are not entitled to the two months' rent as compensation and the tenant's application is dismissed.

Conclusion

The tenants' application is dismissed in its entirety.

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: December 6, 2017

Residential Tenancy Branch