



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

On June 12, 2017, the Tenant made application for dispute resolution under the Residential Tenancy Act (the “Act”).

The Tenant filed for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation, or tenancy agreement; for the Landlord to comply with the *Act*, and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Tenant appeared at the hearing; however, the Landlord did not. The Tenant provided affirmed testimony that the Landlord was served with the Notice of Hearing by registered mail on June 19, 2017. The Tenant testified that the Landlord refused to pick up the registered mail and it was returned marked as refused. The Tenant provided the registered mail tracking number as proof of service. I find that the Landlord is deemed to have been served the Notice of Hearing in accordance with sections 89 and 90 of the *Act*.

The hearing process was explained and the Tenant was asked if he had any questions. The Tenant provided affirmed testimony and was provided the opportunity to present his 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

- Is the Tenant entitled to money owed or compensation for damage or loss under the *Act*, Regulation, or tenancy agreement?
- Is the Tenant entitled to recover the cost of the filing fee?

Background and Evidence

The Tenant testified that the tenancy began in March 2014. Rent in the amount of \$1,450.00 was due to be paid to the Landlord by the first day of each month. The Tenant provided a copy of the tenancy agreement.

The Tenant testified that the Landlord issued the Tenant a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated January 30, 2017 ("the 2 Month Notice"). The Tenant provided a copy of the 2 Month Notice.

The reason for ending the tenancy listed in the 2 Month Notice is:

The rental unit will be occupied by the Landlord or the Landlord's close family member.

The Tenant accepted the 2 Month Notice and moved out of the rental unit on March 31, 2017.

The Tenant testified that he checked on the rental unit shortly after moving out and noticed that the Landlord was renovating. The Tenant testified that a couple weeks later he checked the real estate listings and noticed that the rental property was listed for sale. The Tenant testified that he monitored the listing and discovered that the property was sold. The Tenant provided a copy of a real estate listing document that shows that the rental property was sold. The Tenant testified that the Landlord sold the rental property approximately 1 month after he moved out.

The Tenant is seeking compensation in the amount of two months rent because the Landlord failed to use the property for the reason listed within the 2 Month Notice. The Tenant testified that the Landlord never moved into the property.

The Tenant is seeking a monetary order in the amount of \$2,900.00.

Analysis

Section 51 (1) of the Act states that 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.

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:

I find that the Landlord failed to use the rental property for the reason stated within the 2 Month Notice. The Landlord sold the unit approximately one month after the Tenant moved out.

The Landlord breached the Act by ending the tenancy improperly. With respect to selling a property that has a tenant, a Landlord may only end a tenancy when the conditions of sale are satisfied and the purchaser intends to occupy the unit.

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

I find that the Landlord owes the Tenant \$2,900.00.

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

I grant the Tenant a monetary order in the amount of \$3,000.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlord failed to use the rental unit for the stated purpose within the 2 Month Notice. The Landlord must pay the Tenant the amount of two months' rent payable under the tenancy agreement.

The Tenant is granted a monetary order in the amount of \$3,000.00.

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: December 5, 2017

Residential Tenancy Branch