



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORTH CARIBOO REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC FF

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
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both named parties attended and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents. The agent NJ (the "landlord") primarily spoke on behalf of the corporate landlord.

As both parties were in attendance service was confirmed. The parties testified that they were each served with the other's materials. I find that the parties were each served with all of the respective materials in accordance with sections 88 and 89 of the *Act*.

Preliminary Issue – Adding a Party

At the outset of the hearing the tenant made a request that an additional party be added as a respondent. The tenant sought to add the property owner as a party to the proceeding. The tenant testified that they have not served the property owner with the notice of hearing. The parties gave evidence that the named corporate landlord was acting in their capacity as property managers for the property owner during the tenancy. The property owner terminated their contract with the corporate landlord at the end of

the tenancy and the corporate landlord no longer acts as landlord for the dispute property.

The section 2 of the *Act* defines a landlord as:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this *Act*, the tenancy agreement or a service agreement;

Based on the testimony of the parties I am satisfied that the named corporate landlord was acting on behalf of the property owner and exercising their powers to permit occupation. I therefore find that the named corporate landlord was a landlord for this tenancy as defined under the *Act*.

While the *Act* provides that a landlord includes an owner of a rental unit, the tenant gave evidence that the owner has not been served with the notice of hearing. As I find that the tenant has named already named a landlord, the corporate landlord, in their application and it would be contrary to the principles of procedural fairness to add a party that has not been served or made aware of a proceeding I decline the tenant's request to add a party as a respondent.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The parties agreed on the following facts. This tenancy ended on June 30, 2017 in accordance with a 2 Month Notice to End Tenancy for Landlord's Use dated April 27, 2017 (the "2 Month Notice"). The rental unit is a single detached home. The monthly rent at the end of the tenancy was \$1,300.00. The 2 Month Notice states the reason for the tenancy ending as, "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".

The tenant testified that since moving out of the rental unit they have been by the suite regularly and have seen no evidence of any renovations being performed.

The landlord gave evidence that they were instructed to issue the 2 Month Notice by the property owner and as their contract with the owner ended at the end of the tenancy, have no information about what renovations have been done on the rental unit.

The parties submitted into written evidence a letter from a realtor stating that while the property owner initially intended to perform some renovations prior to selling the rental unit, they found that the suite was in good condition and chose not to perform any renovations prior to placing it for sale.

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 landlord indicated that the tenancy is ending as they will either be renovating or repairing the rental unit in a manner that requires the unit to be vacant. The tenant gave undisputed evidence that no renovations or repairs were performed.

The landlord testified that their contract for services with the property owner ended at the same time as the tenancy and they have no information about what was done to the rental unit afterwards. The landlord testified that they issued the 2 Month Notice in good faith as they were instructed by the property owner and believed that renovations would be performed.

I accept the evidence that the corporate landlord was acting on the instructions of the property owner and they did not have any control of whether renovations were performed after the tenancy ended. However, I find that the end of the corporate

landlord's contract with the property owner does not affect the tenant's right to compensation under section 51 of the Act. The Act is clear in that a tenant is entitled to a monetary award if steps have not been taken to accomplish the stated purpose or the rental unit is not used for that stated purpose. In accordance with the Act the tenant is entitled to a monetary award from the landlord. I have found above that the corporate landlord meets the definition of a landlord under the Act.

I find that the property was not renovated or repaired as set out in the 2 Month Notice. Consequently, I find that the tenant is entitled to a monetary award in the amount of \$2,600.00, double the monthly rent for this tenancy.

As the tenant was successful in their application they may also recover the \$100.00 filing fee.

Conclusion

I issue a monetary order in the tenants' favour in the amount of \$2,700.00 against the landlord. 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: April 10, 2018

Residential Tenancy Branch