



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held on May 1, 2018. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67; and,
- recovery of the filing fee.

One of the Tenants, K.A., attended the hearing. The Landlord did not attend the hearing. The Tenant testified that he sent a copy of the Notice of Hearing along with supporting documentary evidence to the Landlord by registered mail on October 4, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the Landlord is deemed to have received this package on October 9, 2017.

The Tenant was provided the opportunity to present evidence orally and in written and documentary form, and to 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

- Are the Tenants entitled to compensation for money owed or damage or loss under the Act?

Background and Evidence

The Tenant stated that monthly rent was \$1,725.00 per month. The 2-Month Notice to End Tenancy (the Notice) was provided into evidence. This Notice was given to the Tenants around April 11, 2017, and the effective date was June 30, 2017. On page 2 of the Notice, the Landlord selected the following ground as the basis for the Notice:

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).

The Tenant stated that they moved out of the rental unit on June 30, 2017, which was the effective date of the Notice. The Tenant stated that he obtained a copy of the real estate listing for the rental property, provided into evidence, which shows that the Landlord listed the rental property for sale as of July 19, 2017. The Tenant stated that the property sold as of September 7, 2017. The Tenant stated that since the Landlord did not use the rental unit for the purpose stated on the Notice, they are entitled to 2 month's compensation, pursuant to section 51 of the Act.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. In this case, the Tenant provided undisputed testimony and both Tenants are seeking two month's rent in compensation (2 x \$1,725.00) because the Landlord did not utilize the unit for the purpose stated on the Notice.

First, I turn to the following portion of the Act which outlines what the Tenants would be entitled to if the Landlord did not use the property for the stated purpose for at least 6 months:

Tenant's compensation: section 49 notice

- 51** (2) 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.

In this case, the undisputed evidence before me indicates that the Landlord sold the property, rather than using it for the purpose he indicated on the Notice for at least 6 months after the effective date of the Notice. As a result, I find the Tenants are entitled to monetary compensation which is equivalent to double the monthly rent payable under the tenancy agreement (2x\$1,725.00).

As the Tenants were successful with their application, I also grant them the recovery of the filing fee (\$100.00) against the Landlord, pursuant to section 72 of the Act.

In summary, I grant the Tenants a monetary order in the amount of \$3,550.00 because the Landlord breached section 51 of the Act.

Conclusion

I grant the Tenants a monetary order in the amount of \$3,550.00. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenants may file the order in the Provincial Court (Small Claims) and be 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: May 2, 2018

Residential Tenancy Branch