



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with an application by the tenants for a monetary order under Section 51(2) of the Residential Tenancy Act (the “Act”) in an amount equivalent to double the monthly rent payable under the tenancy agreement.

The hearing was conducted via teleconference and was attended by one of the landlords, their agent, and both tenants.

The tenants filed an application for monetary loss and evidentiary materials on September 30, 2017 which were subsequently served upon the landlords. The landlords filed evidentiary materials on April 24, 2017 which were subsequently served upon the tenants.

The parties and the landlords’ agent provided affirmed evidence at the hearing.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order under Section 51(2)?

Background and Evidence

The parties agree as follows. The tenants entered into a month-to-month written tenancy agreement with the landlords for rental of premises to begin June 1, 2016 with rent of \$2,500.00 payable on the first of the month. A security deposit of \$1,000.00 was paid.

By text dated June 2, 2017 from the landlord’s agent, the tenants were informed as follows:

I have some bad news for you guys: (Robert [landlord] just talked to me that his parents are coming to Vancouver at the end of June and there are not enough space for them to live in his current house. So he would like to end the tenancy so his parents can live in there. We are so reluctant to tell you this since you have been living in there for one year. As the tenancy agreement we have is a month to month one, we will compensate you one month rent. If you guys can move out by the end of June, you don't need to pay the rent of June then. [sic]

No written notice to end tenancy was submitted as evidence. The tenants testified the text was the only notice they received.

However, the landlords provided affirmed evidence that the landlords prepared a formal written notice which was personally served on the tenants.

The parties agree the house has been vacant since the tenants moved out, was listed for sale before the end of August 2017, and is still listed for sale.

The landlord testified he changed his mind about his parents moving in to the unit when the inspection after the tenants left revealed considerable mould, damage, and uncleanliness.

Analysis

This application involves consideration of the applicable sections of the Act dealing with the termination of tenancy by the landlord for the landlord's use of the property.

Section 49 of the Act states in part as follows:

49 (2) *Subject to section 51 [tenant's compensation: section 49 notice], a landlord may end a tenancy for a purpose referred to in subsection (3), (4), (5) or (6) by giving notice to end the tenancy effective on a date that must be*
(a) not earlier than 2 months after the date the tenant receives the notice...

Section 51 of the Act states as follows:

51 (1) *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.*

(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.** [emphasis added]*

Section 52 of the *Act* sets out the form and content of the notice to end tenancy for the landlord's use of the property and states as follows:

52 *In order to be effective, a notice to end a tenancy **must be in writing** and must*

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,

... and

*(e) **when given by a landlord, be in the approved form.** [emphasis added]*

The tenants testified the only notice was in the form of the text message of June 2, 2017.

However, the landlords were firm in their evidence they provided written notice to the tenants in a form compliant with the *Act*. The parties agree the landlords acted in accordance with the *Act* in providing compensation in the amount of one month's rent pursuant to section 51.

As no written notice to end tenancy was submitted, I must consider the evidence and decide whether notice pursuant to the *Act* was given by the landlords.

I have considered the fact the landlords acted in a manner consistent with compliance under the *Act* by providing the tenants with an amount equivalent to one month's rent as required by Section 51.

Based upon the testimony of the landlords and considering all the facts of this case, I conclude on a balance of probabilities the landlords complied with the *Act* in providing a written notice under Section 49 (landlord's use of property) conforming with Section 52.

The parties agree that the stated purpose in giving the tenants notice to move out was the landlords' parents were moving in to the unit. The parties agree the landlords' parents did not subsequently do so, the property has been unoccupied, and the property has been listed for sale since shortly after the tenants vacated.

I therefore conclude 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.

Under Section 51(2), the landlords must pay the tenants an amount equivalent to double the monthly rent payable under the tenancy agreement.

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and I grant a Monetary Order in the amount of \$5,000.00 being equivalent of double the monthly rent payable under the tenancy agreement.

This order must be served on the landlords. If the landlords fail to comply with this order, the tenants may file the order in the Provincial Court (Small Claims) to 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 16, 2018

Residential Tenancy Branch