



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Western Avenue Developments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Agent confirms that the corporate Landlord is the owner of the unit and the Agent is an owner and director of the corporate Landlord. The Agent is referred to as the Landlord in this Decision.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The following are agreed facts: The tenancy, under written agreement with the Landlord, started on December 1, 2016 and ended on February 2, 2018. Rent of \$2,995.00 was payable on the first day of each month. The tenancy was ended by the Landlord when the Landlord gave the Tenant a notice to end tenancy for landlord’s use dated December 29, 2017 (the “Notice”). The stated reason for the Notice was that the landlord is a family corporation and a person owning voting share in the corporation, or a close family member of that person, intends in good faith to occupy the unit. The

effective date of the Notice was February 28, 2018. The security deposit has been dealt with.

The Tenant states that on March 1, 2018 the unit was found listed for rent online for rent of \$4,200.00 and that in response to an enquiry in an email dated March 15, 2018 they were informed in return email that the unit was available for rent. The Tenant provides a copy of the advertisement and the email exchange. The Tenant claims the equivalent of two months' rent and the costs of moving for the Landlord's failure to use the unit as stated on the Notice.

The Landlord states that his daughter, who does not own any shares, was supposed to move into the unit to operate a day care but that she was informed sometime in February 2018 that no licence would be granted. The Landlord states that as a result the unit was placed for rent and is still rented. The Landlord does not dispute that the unit was not used for the purpose stated on the Notice.

Analysis

Section 51(2) of the Act, prior to the amendments made effective May 17, 2018, provides that if

(a) steps have not been taken to accomplish the stated purpose for ending the tenancy for landlord's use 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 must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

Based on the undisputed evidence that the unit was not used for the purpose stated on the Notice I find that the Tenant has substantiated an entitlement to the sum claimed of **\$5,990.00** (\$2,995.00 x 2). As the Act sets out and determines the amount of

compensation for the Landlord's failure to use the unit as stated on the Notice, I dismiss the claim for moving costs. As the Tenant has been successful with its primary claim I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$6,090.00**.

It is noted that the Tenant also claimed a carpet cleaning cost in the monetary order worksheet however no evidence was provided at the hearing for this claim and no details are provided in the application in relation to this claim. As a result but considering that the Tenant may have a valid claim in relation to carpet cleaning, I dismiss this claim with leave to reapply.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$6,090.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: October 04, 2018

Residential Tenancy Branch