



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 Tenant's Application for Dispute Resolution. The participatory hearing was held on April 29, 2019. The Tenant 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.

The Tenant attended the hearing. However, the Landlords did not. The Tenant stated that the Landlords in this case are the new purchasers of the rental unit, as they are the ones who asked for vacant possession (via the 2-Month Notice). I find the new owners in this case are the Landlords for the purposes of this application, as they were the ones exercising their powers and duties as Landlords under the *Act* by issuing the Notice. The Tenant stated that he did a title search of the property he rented, and located the new owners (mailing address) this way. The Tenant stated that he sent each of the new owners a separate package, by registered mail, on January 10, 2019. Pursuant to section 88 and 90 of the *Act*, I find the Landlords were deemed served with this application and evidence on January 15, 2019, the fifth day after it was mailed.

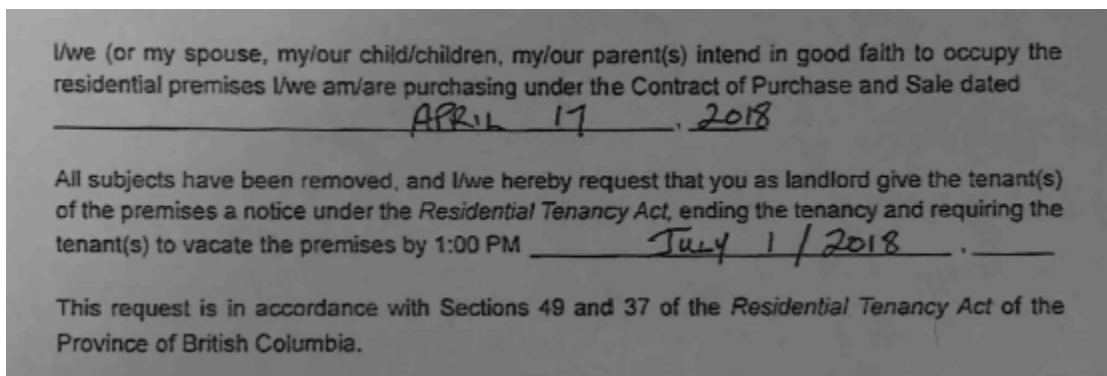
I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Tenant entitled to compensation for money owed or damage or loss under the Act?

Background and Evidence

The Tenant stated that monthly rent was \$1,100.00 per month. The Tenant stated that the old owner and Landlord sold the rental unit, and the new owners asked for vacant possession, as of the beginning of July 2018. The Tenant provided a copy of the written request from the new owners, which states the following:



I/we (or my spouse, my/our child/children, my/our parent(s) intend in good faith to occupy the residential premises I/we am/are purchasing under the Contract of Purchase and Sale dated APRIL 17, 2018

All subjects have been removed, and I/we hereby request that you as landlord give the tenant(s) of the premises a notice under the *Residential Tenancy Act*, ending the tenancy and requiring the tenant(s) to vacate the premises by 1:00 PM July 1 / 2018

This request is in accordance with Sections 49 and 37 of the *Residential Tenancy Act* of the Province of British Columbia.

The Tenant stated that he also was given a 2 Month Notice to End Tenancy (the Notice) on April 28, 2018, under the ground that:

- All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The 2-Month Notice to End Tenancy (the Notice) was provided into evidence. This Notice was given to the Tenant on April 28, 2018, and the effective date was June 30, 2018. The Tenant stated he moved out of the rental unit, and in August he saw the same rental unit went up on Kijiji, for significantly higher rent. The Tenant provided a copy of the ad, as well as photos from the real estate listing, linking the addresses. The Tenant stated that he knows the old Landlord, who was the strata president of the building, and the new renters do not appear to be close family members of the new owners.

The Tenant is seeking 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 is seeking two month's rent in compensation (2 x \$1,100.00) because the purchaser of the rental unit 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 Tenant 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 previous landlord issued the Notice on April 28, 2018, because the purchaser requested vacant possession so that they (or close family) could move in. Based on the undisputed evidence and testimony, I find the new purchasers did not use the rental unit for the purpose stated on the Notice. I find the photos, ads, and listings sufficiently show that the Tenant's rental unit was sold, and re-rented at a higher rate. As a result, I find the Tenant is entitled to monetary compensation which is equivalent to double the monthly rent payable under the tenancy agreement (2x\$1,100.00).

As the Tenant was successful with his application, I also grant him the recovery of the filing fee (\$100.00) against the Landlords, pursuant to section 72 of the Act.

In summary, I grant the Tenant a monetary order in the amount of \$2,300.00. This order is issued against the new owners and purchasers (and Landlords for the purposes of this Act), given they breached section 51 of the Act.

Conclusion

I grant the Tenant a monetary order in the amount of \$2,300.00. 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: April 30, 2019

Residential Tenancy Branch