



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

This hearing dealt with the Application for Dispute Resolution by the Tenants filed under the *Residential Tenancy Act* (the “*Act*”), for an order for the Landlord to comply with the *Act*. The matter was set for a conference call.

The Tenants attended the hearing and were each affirmed to be truthful in their testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing Documents. The Tenant testified that they served the Landlord and with the Notice of Hearing documents and their evidence package by Canada Post Registered mail, sent on April 27, 2019, a Canada post tracking number was provided as evidence of service. Pursuant to Section 90 of the *Act*, I find the Landlord is deemed to have received the Notice of Hearing documents on May 2, 2019.

The Tenants were provided with the opportunity to present their evidence orally and in written, documentary form, and make submissions at the hearing.

Issues to be Decided

- Should the Landlord be ordered to comply with the *Act*?

Background and Evidence

The Tenants testified that they signed a tenancy agreement with the Landlord on February 8, 2019, for a tenancy that would have begun on June 1, 2019, for a 22-month fix term, that would have rolled into a month to month at the end of the initial term of the tenancy. Rent in the amount of \$7,000.00 was to be paid by the first day of each month, and the Tenants were to pay the Landlord a \$3,500.00 security deposit by May 1, 2019.

The Tenant submitted a copy of the tenancy agreement, the two-page addendum to the tenancy agreement and a copy of the posted cheque for the security deposit into documentary evidence.

The Tenants testified that they had a material term written into the tenancy agreement, addendum number 15, which states the following:

ADDENDUM TO THE LEASE

“15. Owner agrees not to list the property for sale during June 1st 2019-May 31st, 2020.”

The Tenants testified that on February 13, 2019, they found out that the Landlord had listed the rental unit for sale. The Tenant testified that they confronted the Landlord right away regarding this breach of a material term of their tenancy. The Tenants testified that the Landlord apologized and advised them that if they were to find another place to rent, she would sign a mutual agreement to end this tenancy.

The Tenants testified that they started looking for another place to rent right away and that on April 6, 2019, they had secured an alternate place to rent. The Tenants testified that they gave official written notice to the Landlord that they had secured an alternate rental and that they would not be moving into the rental unit due to the Landlords breach.

The Tenants also testified that the Landlord's agent had invited them to their office and had them sign a mutual agreement to end the tenancy on April 6, 2019, which they did attend, and the Tenants did sign. The Tenant testified that the Landlord's agent was to take the mutual agreement to end tenancy to the Landlord to sign the next day. However, they were notified by the Landlord's agent that the Landlord had refused to sign the mutual agreement to end the tenancy,

The Tenants are requesting that the tenancy agreement be invalidated due to the Landlord's breach of material term 15.

Analysis

Based on the evidence before me, the testimony of the Tenants, and on a balance of probabilities:

I find that these parties entered into a 22-month fixed term tenancy agreement with addendum, on February 8, 2019, for a tenancy that was to start as of June 1, 2019.

I accept that the undisputed testimony of the Tenants and find that addendum 15 was a material term of this Tenancy Agreement.

Additionally, I also accept undisputed testimony of the Tenants that the Landlord, on or about February 15, 2019, listed the rental property for sale.

The Tenants are seeking to have the tenancy agreement invalidated through these proceedings. However, I find the Tenants application to be moot, as the Landlord has not disputed the facts of this case, nor are they seeking compensation.

The role of this office is to adjudicate disputes between landlords and tenants, and I find there is no need to make a ruling on the validity of a tenancy agreement, at this time, as there is no outcome sought by the applicants.

Conclusion

I dismiss the Tenants application to invalidate this tenancy agreement.

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: June 7, 2019

Residential Tenancy Branch