



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order pursuant to section 49 and 51 of the Act, and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Issue to be Decided

Is the tenant entitled to a monetary order for money owed?

Background and Evidence

The tenant testified that they were a long-time tenancy as they had lived in the rental unit for eight years. Rent was \$922.50 per month.

The tenant testified that they were served with a Two Month Notice for Landlord's Use of Property (the "Notice"), issued on July 30, 2019 and vacated the property at the end of September 2019.

The tenant testified that the reason stated in the Notice was that all the conditions of the sale of the rental unit have be satisfied and the purchaser has asked the landlord, in writing to give the Notice because the purchaser or a close family member intends in

good faith to occupy the rental unit. The tenant stated that within three weeks of vacating the property there was a signed advertising the premise for rent. The tenant stated that they would never have vacated the premise except for the Notice.

The responded testified that they purchased the property and never intended to occupy the premise as this was an investment property and there must have been some confusion with the real estate agent.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Tenant's compensation: section 49 notice

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) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if

(a) steps have not been taken, within a reasonable period after the effective date of the notice, to accomplish the stated purpose for ending the tenancy, or

(b) the rental unit is not used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

(3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser from

(a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, or

(b) using the rental unit for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

In this case, the tenant received the Notice. The evidence of the purchaser was they have not occupied the premises and it was always intended to be an investment property.

As the purchaser did not comply with the reasons stated in the Notice, I find the purchaser is in breach of section 51 of the Act. I find the tenant is entitled to recover the equivalent of 12 months of rent. Therefore, I find the tenant is entitled to recover the amount of \$11,070.00 (\$922.50x12) and \$100.00 for the cost of the filing fee for a total monetary order of **\$11,170.00**.

At the hearing the respondent stated that they would pay the above amount no later than June 12, 2020. The tenant was satisfied to wait until that date. Should the respondent fail to pay the above amount by the date stated the tenant is entitled to enforce the order in Provincial Court (Small Claims).

Conclusion

The tenant's application is granted.

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: March 12, 2020

Residential Tenancy Branch