



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MONGA INVESTMENT GROUP LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT

Introduction

On October 13, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for compensation. The matter was set for a participatory hearing via conference call.

The Landlord's agent (the “Landlord”) and the Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me. The Landlord acknowledged that they did not submit any evidence for this matter.

Issue to be Decided

Should the Tenant receive a Monetary Order for compensation, in accordance with section 51(2) of the Act?

Background and Evidence

Both parties agreed to the following terms of the tenancy:

The month-to-month tenancy began on June 15, 2017 and continued until April 30, 2019. The rent was \$650.00 and due on the first of each month. The Landlord could not confirm if a security deposit was collected but confirmed that the Landlord no longer held a security deposit in relation to the tenancy.

Both parties agreed to the following details regarding the Notice to End Tenancy:

A Two Month Notice to End Tenancy for Landlord's Use of Property, dated, February 17, 2019 (the “Two Month Notice”) was served on the Tenant. The move-out date on the Two Month Notice was for April 30, 2019. The reason for the Two Month Notice, as

indicated on the back, was that the “rental unit will be occupied by the landlord or the landlord’s close family member.” The Tenant moved out of the rental unit on April 30, 2019, pursuant to the Two Month Notice.

The Tenant submitted that the rental unit was never occupied by the Landlord or a close family member of the Landlord. Instead, the Landlord conducted major renovations and rented the rental unit out to another tenant.

The Tenant provided “before” pictures from the last day they had occupation of the rental unit and “after” pictures from March 31, 2020, when the latest tenants moved out of the rental unit. The pictures demonstrate that major renovations were conducted after the Tenant moved out of the rental unit which included new flooring, windows, paint, light fixtures and cabinets throughout the unit.

The Tenant testified that they knew the new tenants who moved into the rental unit after the renovations were completed. The tenants had been neighbours of the Tenant and had lived in another unit within the same residential property. The Tenant obtained the tenants’ consent to take the “after” pictures of the rental unit.

The Tenant testified that the tenants told her that the Landlord did complete the renovations and never moved into the rental unit.

The Landlord testified that they were hired as the manager for the building after the Tenant had moved out.

The Landlord did not dispute any of the Tenant’s testimony or evidence. The Landlord confirmed that the renovations had been completed and the rental unit rented out to new tenants.

The Landlord stated that the previous manager checked off the wrong box of the Two Month Notice and that it should have been for renovations, not for the Landlord’s occupancy.

The Tenant noted that there are no boxes on the Two Month Notice that provide the option for renovations, and that if the Landlord intended on renovating and not moving in, that they should have provided four months’ notice.

The Tenant is claiming compensation in the amount equal to twelve months’ rent payable under the Tenancy Agreement, for a total of \$7,800.00.

Analysis

Section 51(2) of the RTA requires a landlord to compensate a tenant an amount equal to 12 months’ rent payable under the tenancy agreement if the landlord (or purchaser, if

applicable) has not taken steps to accomplish the stated purpose for ending the tenancy within a reasonable period after the effective date of the Notice to End Tenancy, or used the rental unit for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice.

Compensation must be paid unless an arbitrator of the Residential Tenancy Branch finds that the landlord's failure was due to extenuating circumstances.

Based on the undisputed testimony and evidence of the Tenant, I find that the Landlord has failed to take any steps to occupy the rental unit within a reasonable period after the effective date of the Two Month Notice, that being April 30, 2019.

An arbitrator may excuse a landlord from paying compensation if there were extenuating circumstances that stopped the landlord from accomplishing the purpose or using the rental unit. These are circumstances where it would be unreasonable and unjust for a landlord to pay compensation. Some examples are:

- A landlord ends a tenancy so their parent can occupy the rental unit and the parent dies before moving in.
- A landlord ends a tenancy to renovate the rental unit and the rental unit is destroyed in a wildfire.

In this case, the Landlord testified that the previous manager for the building mistakenly provided the incorrect reasons for the end of tenancy on the Two Month Notice. I find that this explanation does not compare to the examples of extenuating circumstances provided in the *Residential Tenancy Policy Guideline #50 – Compensation for Ending a Tenancy*, nor are they circumstances that are unreasonable or unjust for a Landlord to pay compensation to the Tenant. I find that the Landlord failed to provide sufficient evidence of extenuating circumstances in this matter.

Based on the testimony and evidence in this matter, I find that the Tenant has successfully established a monetary claim pursuant to section 51(2) of the Act. As such, I find that the Landlord owes the Tenant the amount equal to 12 month's rent payable under the Tenancy Agreement; for a total of \$7,800.00.

Conclusion

I grant the Tenant a Monetary Order for the amount of \$7,800.00, in accordance with Section 51(2) of the Act. In the event that the Landlord does not comply with this Order,

it may be served on the Landlord, filed with the Province of British Columbia 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 *Residential Tenancy Act*.

Dated: February 03, 2021

Residential Tenancy Branch