



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VIC VENU PROFESSIONAL CORPORATION and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenants stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 20, 2021. The landlord's agent (the landlord) confirmed receipt of both. The landlord stated that the tenants were served with their late evidence submission on January 17, 2021 via courier. The tenants confirmed receipt of this package and it was noted that despite receiving it late, the tenants had no issues in proceeding with the hearing. As neither party raised any service issues the hearing proceeded. I also note for the record that despite the tenants filing their application for dispute on July 5, 2021 the tenants provided testimony that they did not receive the hearing package to serve to the landlord until October 19, 2021 at their request. Neither party raised any issues on being served beyond the 3 day timeline from which the notice was processed. I find on this basis neither party was prejudiced and are deemed served as per section 71 of the Act.

During the hearing both parties were disconnected from the conference call hearing for a brief time. On each occasion the hearing was paused to allow that party to re-connect. No issues were discussed during the “pauses”.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant’s claim and my findings are set out below.

The tenants seek a monetary claim of \$11,500.00 which consists of:

\$11,400.00	Compensation, Sec. 51 re: Sec. 49 Notice \$950.00 monthly rent X 12
\$100.00	Filing Fee

The tenants provided a written description which states,

V. and K.V. bought the rental property at ...on Oct 31, 2020 and immediately served us notice of eviction (through S. and D.S. who were the previous owners) stating they intended to occupy. However there were new rentals in the upper half of the house by December 1st, and the V’s were advertising the basement suite while still lived in it (Dec 2020) and after we moved out (Jan 2021). They did not act in good faith.

[reproduced as written with the exception of names and address)

Both parties confirmed that the tenants were served with a 2 month notice to end tenancy for landlord’s use of property dated October 31, 2020. The tenants referenced the submitted copy of the 2 month notice which states in part an effective end of tenancy date of December 31, 2020 and the reason selected on the notice was:

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 listed purchaser is named as V.V., the named landlord's listed agent.

Both parties also confirmed based upon the submitted copy of a Contract of Purchase dated October 31, 2020 an addendum was completed between the Seller and Buyer that states in part,

The Buyer is notifying the Seller to give legal notice to the Tenant to vacate from the property as the Buyer intends to occupy the property for their own use. End of Tenancy will be December 31, 2020.

Both parties confirmed the tenants vacated the rental unit as per the notice. Both parties confirmed that the landlord did not occupy the rental unit. The landlord provided undisputed affirmed testimony that the purchase of the property was for "investment or to flip it". The landlord stated that it was never their intention to occupy the rental unit. The landlord stated that "they were led to believe" that the tenants intended to vacate the rental unit as it was too small now that they had a child. The landlord stated that this was based upon the landlord's submitted copies of text messages.

Analysis

Section 51 of the Act states in part that a tenant who receives a notice to end tenancy under section 49 is entitled to receive from the landlord an amount equal to 12 times the monthly rent payable under the tenancy agreement if 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 the rental unit is not used for the stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

In this case, I accept the undisputed affirmed evidence of both parties that the tenants were served with a 2 month notice dated October 31, 2020 for landlord's use of property. The 2 month notice states that it was given as all the conditions for the sale were completed and the buyer has requested in writing the seller give notice to end tenancy for the buyer intends to occupy the rental unit. Both parties confirmed that the buyer/landlord did not occupy the rental unit. Based on the undisputed affirmed evidence of both parties I find that the tenants have established a claim as filed for \$11,400.00 based upon the \$950.00 of monthly rent X 12.

The tenants are also entitled to recovery of the \$100.00 filing fee.

Conclusion

The tenants are granted a monetary order for \$11,500.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: January 21, 2022

Residential Tenancy Branch