



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNETC, FFT**

Introduction

This hearing dealt with an application by the tenants pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- For an order for compensation equal to 12 months rent pursuant to section 51 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

Landlord's agent GD appeared with counsel PJ. Tenants AE and RT appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the Act.

Preliminary Issue

The landlord was incorrectly named. As per the Buyer's Notice to Seller, the application is amended to reflect that the landlord purchaser of the rental unit is a numbered company.

Issue(s) to be Decided

1. Are the tenants entitled to a monetary order for compensation of twelve months rent?
2. Are the tenants entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced October 1, 2019. Rent was \$2,800.00 per month due on the first of the month. The tenants paid a security deposit of \$1,400.00 and a pet deposit of \$1,400.00. The tenancy ended April 14, 2022.

The tenants testified that they received a Two Month Notice to End Tenancy for Landlord's Use ("Two Month Notice") on January 12, 2022. Accompanying the Two Month Notice was a Buyer's Notice to Seller for Vacant Possession form ("Buyer's Notice"). The tenants produced both forms in evidence. The tenants testified that they vacated the rental unit based on the Two Month Notice. They further testified that on June 6, 2022 there was a For Rent sign on the rental unit. The tenants produced a picture of the For Rent sign in evidence. Tenant AE testified that she called the number listed on the For Rent Sign, spoke with an individual, and confirmed that the main floor of the rental unit was for rent.

The tenants testified that they had rented the entire home for the duration of their tenancy.

The landlord's counsel advised that the rental unit was purchased by a numbered company and notice was given through the seller to the tenants to vacate the rental unit. The directors of the numbered company ("Company A"), GD and JS were listed on the Buyer's Notice. The purchase contract was then subsequently assigned to a second numbered company ("Company B") with different directors, GD and KD. Director GD is the same individual for both companies. The sale of the rental unit was completed on May 16, 2022. Company B then renovated the rental unit and created a new basement suite which they rented out on August 1, 2022. The landlord's counsel stated that the director KD currently occupies the main floor of the rental unit. KD is a director of Company B. Company B is listed on title. The landlord provided the land title in evidence.

The landlord's counsel stated that the For Rent sign was for the adjoining property and not for the subject rental unit. Landlord's counsel was unaware of any inquiries by the tenants regarding the For Rent sign.

Analysis

Section 51 of the Act places the onus on the landlord to establish that the property was used for the purpose stated in the notice. More specifically section 51 requires a purchaser of a property who asks a landlord to give a Two Month Notice to tenants, must establish that the stated purpose for ending the tenancy was accomplished within a reasonable time period. The purchaser information is listed in the Two Month Notice. The purchaser is Company A. The Two Month Notice states that the purchaser or a close family member intends to occupy the rental unit.

The evidence of the landlord is that no director or close family member of Company A occupied the rental unit. KD is a director of Company B, not Company A. Company A assigned the purchase contract to Company B. I find that the initial purchaser, Company A, did not accomplish the purpose stated in the Two Month Notice. At no time did a director or a close family member of a director of Company A occupy the rental unit. Further, I find that the landlord has not established that either Company A or Company B is a family held corporation as required under the Act.

The tenants' application is granted. The tenants are entitled to compensation of 12 months rent based on section 51 of the Act. As the tenants are successful in their application they are also entitled to recover the \$100.00 filing fee for the application.

Conclusion

The tenants are granted a monetary order in the amount of \$33,700.00 for compensation and the filing fee. The monetary order must be served on the landlord. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: May 04, 2023

Residential Tenancy Branch