



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

Tenants PR and JC appeared. The landlord did not appear. The tenants 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 tenants were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The tenants were affirmed.

The tenants testified that they served the landlord with the dispute notice and materials by registered mail on September 30, 2022. I confirmed with the tenants that the dispute notice and materials were sent to the address listed on the Two Month Notice to End Tenancy (“Two Month Notice”). As the property was purchased and the listed reason for ending the tenancy was for the buyer’s occupancy, I specifically confirmed that the dispute materials were sent to the buyer’s address as listed on the Two Month Notice. The Two Month Notice was provided in evidence. The tenants also provided a picture of the addressed package with mailing labels. Based on their testimonies I find the landlord deemed served on October 5, 2022, in accordance with sections 88, 89, and 90 of the Act.

Issue(s) to be Decided

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

Background and Evidence

The tenancy commenced August 1, 2013. Rent was \$1,607.00 per month due on the first of the month. The landlord returned the security and pet deposits paid by the tenant. The tenancy ended March 31, 2022.

The tenants testified that on September 6, 2022, they located an online ad posting the rental unit for rent. The tenants produced the rental ad in evidence.

Analysis

Section 51 of the Act provides for compensation for tenants if the rental unit was sold, the buyer gave notice to the seller to end the tenancy for the landlord's use and the tenants vacated the rental unit based on the Two Month Notice. The landlord buyer then bears the onus to establish that the rental unit was used for the purpose stated in the Two Month Notice. If the landlord does not meet their onus, then the tenants are entitled to compensation in an amount equal to 12 months' rent.

In this case, the listed purpose in the Two Month Notice was to allow the buyer of the rental unit to occupy it. The landlord did not attend the hearing or provide any evidence to show that he occupied the rental unit for at least 6 months as required in section 51(2) of the Act. Therefore, I find that the landlord has not satisfied his onus to establish that he occupied the rental unit for at least 6 months. The tenant's application is granted.

The tenants are entitled to compensation in the amount of 12 months' rent (\$1,607.00 X 12 months = \$19,284.00).

As the tenants were successful in their application, the tenants 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 \$19,384.00 for compensation and the filing fee. The monetary order must be served on the tenant. 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: June 06, 2023

Residential Tenancy Branch