



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking monetary compensation for the landlord's failure to comply with the *Residential Tenancy Act* or use the rental unit for the purpose contained in a notice to end the tenancy for landlord's use of property.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

The parties agreed that all evidence has been exchanged, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the Two Month Notice to End Tenancy for Landlord's Use of Property was given in accordance with the *Residential Tenancy Act* and by accomplishing that stated purpose within a reasonable time after the effective date of the Notice, and for at least 6 months duration?

Background and Evidence

The landlord testified that the landlord purchased the rental unit and the tenant lived there for almost 13 years. The tenancy with the tenant and the landlord started on March 1, 2015 and ended on August 31, 2022. Rent in the amount of \$800.00 was payable on the 1st day of each month which was increased over time to \$862.50, the landlord believes. The landlord received a security deposit from the tenant in the amount of \$400.00, but did not return any portion to the tenant; the landlord has not

received the tenant's forwarding address in writing. The rental unit is an up/down duplex; the tenant resided in the lower level and the landlord lived in the upper level during this tenancy. A copy of a portion of the tenancy agreement has been provided by the tenant for this hearing.

The landlord further testified that the tenant was served with a Two Month Notice to End Tenancy for Landlord's Use of Property. A copy has been provided for this hearing and it is dated May 3, 2022 and contains an effective date of vacancy of August 31, 2022. The reason for issuing it states:

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse), specifying the landlord or the landlord's spouse.

When the landlord first spoke to the tenant, the landlord said that he wanted to sell, and had no intention of using the rental unit, but that was the only Notice the landlord could find on the website. The tenant was given 1 month's rent as compensation.

It was in May, 2022 that the landlord decided to sell and thought that an extra month should be given to the tenant to find a place, for the tenant's benefit and that of her child.

The rental home has been on the market with a realtor since May, 2023 and is still on the market.

At the end of November, the landlord's father was in hospital and the doctor told the family he would not last long, and he passed away. The landlord needed money and had to re-rent. The landlord was asking \$1,800.00 but settled with a new tenant for \$1,650.00, who moved in on December 15, 2022 and still lives there. It wasn't advertised for rent, but the landlord's son had a query from his workplace.

The tenant testified that rent was \$862.75 per month.

The tenant did not know where she was going, so did not provide the landlord with a forwarding address in writing.

The tenant has a friend who resides next door to the rental unit, who saw people moving in during December, 2022. The tenant has also provided a note from a person

indicating that the person's daughter and boyfriend have been renting the rental unit since about January, 2023.

Analysis

Where a tenant makes an application for compensation for the landlord's failure to comply with the *Act* and use the rental unit for the purpose contained in a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice), the onus is on the landlord to establish that the stated purpose was accomplished within a reasonable time after the effective date of the Notice and for at least 6 months duration.

In this case, there is no question that the landlord did not, and had no intention of occupying the rental unit. In fact, the landlord re-rented it for about double the amount commencing within about 3.5 months after the effective date of the Notice.

The landlord testified that compensation in the equivalent of 1 month's rent was provided to the tenant. The law states that if the landlord fails to accomplish that stated purpose, the landlord, in addition to the 1 month's rent, must pay compensation to the tenant in the amount of 12 times the monthly rent.

The law also states that where I find that extenuating circumstances exist that prevented the landlord from accomplishing the stated purpose, I may decline to order that the tenant recover 12 times the monthly rent. In this case, there are no extenuating circumstances, and I find that the tenant is entitled to 12 times the monthly rent.

The tenant testified that the rent was \$862.75 and the landlord indicated that he believed it was \$862.50, but was not sure. Therefore, I accept the tenant's testimony and I grant a monetary order in favour of the tenant in the amount of \$10,353.00 (12 x \$862.75). The tenant must serve the landlord with the order, which may be filed for enforcement in the Provincial Court of British Columbia, Small Claims division as an order of that Court.

Conclusion

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$10,353.00.

This order is final and binding and may be enforced.

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: July 23, 2023

Residential Tenancy Branch