



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s April 3, 2023, application to the Residential Tenancy Branch for compensation under section 51 of the Act because the tenancy was ended as a result of a Two Month Notice to End Tenancy, and the purchasers have not used the rental unit for the stated purpose.

Issues

1. Is the tenant entitled to compensation?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began November 1, 2021, and ended on October 31, 2022. Rent was \$1,175.00 due on the first day of the month. There is a copy of the written tenancy agreement in evidence.

The tenant submitted as evidence a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”), which had an effective date of October 31, 2022. The reason stated for the Notice was because:

- all of the conditions of 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 purchasers affirmed that:

- the purchasers took possession of the rental unit on November 1, 2022, 1 day after the effective date of October 31, 2022.
- between taking possession on November 1, 2022, and April 30, 2023, the property was occupied by at least one of the purchasers for 111 of a possible 181 days.
- the rental unit is owned jointly by the purchasers CL, AB, AP and TB, who are two couples.
- The rental unit is located in an area with skiing and vacation rentals. The purchasers CL and AP both work remotely, which was why the purchasers were able to reside in this area.
- the purchasers are passionate about skiing, which is why the purchasers decided to buy a property in this area.
- the purchasers mainly used the rental unit as a base for skiing on the weekends and the purchasers CL and AP worked remotely from the rental unit during the week when they were able to.

In support of the purchasers' affirmations, the purchasers submitted as evidence:

- a table, which sets out when each individual purchaser had stayed in the rental unit and confirms that the property was occupied by at least one of the purchasers for 111 of a possible 181 days.
- multiple photos from the period of November 1, 2022, to April 30, 2023, showing the purchasers occupying the rental unit for residential purposes. This is a collection of photos from social media showing the purchasers' life in the rental unit. There are photos of the purchasers engaging in activities in the rental unit such as playing video games, having meals, working remotely, and having gatherings. The earliest photo uploaded was from November 1, 2022, the date on which the purchasers took possession. The last photo submitted was from April 30, 2023. There are photographic evidence of the purchasers occupying the

rental unit from the months of November 2022, December 2022, January 2023, February 2023, March 2023, and April 2023.

- internet bills from November 2022 to April 2023, showing that the purchasers had been using the internet at the rental unit during this period.
- a letter from the purchaser CL's employer stating that since November 1, 2022, the purchaser CL has been working remotely on a regular basis.
- a letter from the purchaser AP's employer stating that the purchaser AP is working remotely.

The tenant affirmed that internet usage does not prove that the purchasers were living there, it only shows that somebody was living there at the time.

Analysis

Section 51(2) of the Act states that if a tenant is given a notice to end tenancy under section 49 [*Landlord's notice: landlord's use of property*], a landlord or purchaser if applicable, must pay the tenant an amount that is equal to 12 times the monthly rent 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 that stated purpose for at least six months' duration.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the tenant has not established a claim for compensation. I find this because the reason stated for the Notice was because 'the purchaser or a close family member intends in good faith to occupy the rental unit' and the purchasers established through detailed records and photos of them living in the rental unit throughout the six months after possession that they are residing in the rental unit. As the purchasers' evidence establishes that the purchasers occupied the rental unit for residential purposes from November 1, 2022, to April 30, 2023, I am dismissing the tenant's application for compensation for the purchasers failing to accomplish the stated purpose on a notice to end tenancy under section 51 of the Act.

Conclusion

The application is dismissed without leave to reapply.

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 08, 2023

Residential Tenancy Branch