



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

The tenants applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenants ask me to order that the landlords pay them \$19,200.00 in compensation for not complying with the *Residential Tenancy Act* [the 'Act'], and reimburse them for the cost of filing this application.

The landlords appeared at the hearing on 20 June 2023. The tenants also appeared.

Issues to be Decided

Did the landlords accomplish the stated purpose for ending this tenancy and use it for that purpose for at least six months?

Background and Evidence

In November 2022, the landlords served the tenants with a notice to end tenancy under section 49 of the *Residential Tenancy Act* [the 'Act'], giving as a reason that the landlords would occupy the unit [the 'Notice']. The tenants did not dispute this Notice, and they moved out in December 2022.

But then in April 2023, the tenants discovered that the landlords had listed the rental property for sale, and immediately filed this application.

The landlords told me that they moved into the rental unit themselves after the tenants moved out, along with their son. They supported this with e-mails and letters from

different people alluding to being at the property, at least in January 2023, and some into April, and that all these people observed the landlords living in the unit.

The landlords did not deny that they listed the property for sale in April, but told me that they were careful to live in the property for at least six months before the sale could go through.

They called as a witness their real-estate agent, who told me that he began discussing selling the property with the landlords in March. He also told me that he and the landlords arranged that if a sale went through, then the buyers could not possess the house in August, after the six-month requirement under the Act had passed.

Analysis

I have considered all the statements made by the parties and the documents to which they referred me during this hearing. And I have considered all the arguments made by the parties.

The key question I must answer is did the landlords probably accomplish the stated purpose for ending this tenancy, and use it for that purpose for at least six months? In other words, did the landlords probably move into the rental property for at least six months before selling?

They bear the onus of convincing me that they probably did this thing. And I find that they have met this onus: the landlords *probably* lived in the rental property for six months.

They told me that they lived there from January to August, and were alive to the requirement of having to live there for at least six months. They corroborated this with communications from acquaintances who saw them living in the property during the early parts of 2023, and with statements from their real-estate agent who told me that they were careful to ensure that the sale did not complete until August.

Having met this burden, I can consider whether the tenants have any evidence to suggest that the landlords did not live there for six months. Is there anything to undermine the landlords' statements and records? The tenants present nothing, other than to argue that the Act prohibited the landlords from listing the house for sale for the

first six months after the tenancy ended. But they did not point me to any section of the Act that supports that argument.

Having issued the Notice, the Act required the landlords to live in the unit for at least six months. The Act did not prevent the landlords from embarking on the process of selling the house within that period.

Conclusion

I dismiss this application without leave to re-apply.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 26 July 2023

Residential Tenancy Branch