



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking monetary compensation from the landlord for the landlord's failure to accomplish the stated purpose for ending the tenancy with a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit, and to recover the filing fee from the landlord for the cost of the application.

The tenant and an agent for 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 landlord has accomplished the stated purpose for ending the tenancy within a reasonable time after the effective date of the Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental unit, or do extenuating circumstances exist that prevented that?
- Should the tenant recover the filing fee from the landlord?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on April 1, 2019 and ended at the end of July, 2023. Rent in the amount of \$4,100.00 was payable on the 1st day of each month, which was increased by the landlord's previous property manager to \$4,161.00 and there are no rental arrears. On March 3, 2018 the landlord collected a

security deposit from the tenant in the amount of \$2,000.00 but does not know whether or not a pet damage deposit was also collected, and believes that the security deposit was returned to the tenant. The rental unit is a single family dwelling, and the latest tenancy agreement has been provided for this hearing.

The landlord's agent further testified that the tenant was served a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental unit, a copy of which has been provided for this hearing by the tenant. It is dated March 5, 2023 and contains an effective date of vacancy of July 31, 2023. The reason for issuing it states: The landlord has obtained all permits and approvals required by law to do this work, and the landlord intends to demolish the rental unit.

The plan was to build a duplex for the landlord's mother and the landlord, but due to construction costs and an interest hike, the building plan has been put on hold, and the rental home has not been demolished.

The tenant has also provided a copy of an MLS advertisement showing that the rental home was listed on November 21, 2023 for the price of \$4,390,000.00, which the landlord's agent testified is the market price. The landlord doesn't think they can afford to re-build, but the market is down, and if they can sell, that would be great, but if not, they have to hold it until costs decrease. The landlord's agent does not know when that might happen, and the landlord is waiting for the interest rate to decrease.

The costs that the landlord has put into planning is already substantial, and the landlord has provided a written submission indicating that \$125,833.72 has been spent for management fees, City fees, a building permit application fee and loss of rental revenue. Also provided is a copy of a building permit dated March 3, 2023, a builder's contract and building plans. Also provided is a MLS contract indicating that the seller lists exclusively with the Listing Brokerage from August 21, 2023 until November 20, 2023 for a sum of \$4,580,000.00. The tenancy agreement with the new tenant commences on February 4, 2024 and ends on February 28, 2026 and then reverts to a month-to-month tenancy, for rent in the amount of \$5,000.00, payable on the 1st day of each month, with the first payment date to be March 1, 2024.

The rental unit has been re-rented in February, 2024 for \$5,000.00 per month.

The tenant testified that the tenancy began on March 15, 2018 and rent was \$4,000.00 per month, which was increased in 2019 and to \$4,161.00 for the last year of the tenancy.

In March, 2023 the tenant received the Notice to end the tenancy and didn't pay rent for the last month. The tenant moved out on July 31, 2023. The security deposit was returned to the tenant, and no pet damage deposit had been collected by the landlord.

SUBMISSIONS OF THE LANDLORD'S AGENT:

The landlord has spent a lot into this, and the intention was never to evict the tenant to re-rent. The landlord is waiting for costs to decrease and can't afford to leave it vacant due to the City Vacant Home Tax and Speculation Tax in BC.

SUBMISSIONS OF THE TENANT:

The tenant does not know why the landlord wanted the tenant to vacate, and the reason given turned out to be false.

Analysis

Where a tenant makes an application for compensation for the landlord's failure to accomplish the stated purpose for ending the tenancy with a Four Months' Notice to End Tenancy For Demolition or Conversion of a Rental Unit (the Notice), the onus is on the landlord to establish that the landlord has acted in good faith, and accomplished that stated purpose within a reasonable time after the effective date of the Notice. If the landlord fails to accomplish the stated purpose, the landlord must compensate the tenant 12 times the monthly rent. The law also states that where I find that extenuating circumstances prevented that, I may excuse the landlord from paying the compensation.

In this case, I do not find that increased costs to complete the work is an extenuating circumstance. An extenuating circumstance might be that the owner has become incapacitated after the tenant vacated. Particularly where the landlord has listed the house for sale in less than 1 month after the tenancy ended for over \$4,000,000.00 and has re-rented for more than the tenant had been paying, I find that the tenant is entitled to the compensation.

The parties agreed that rent in the amount of \$4,161.00 was payable per month, and 12 times that is \$49,932.00.

Since the tenant has been successful with the application the tenant is also entitled to recover the \$100.00 filing fee from the landlord.

I grant a monetary order in favour of the tenant as against the landlord in the amount of \$50,032.00. The landlord must be served with the order, which may be filed with the Courts for enforcement.

Conclusion

For the reasons set out above, 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 \$50,032.00.

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: October 02, 2024

Residential Tenancy Branch