Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNDC, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee.

The parties appeared and the tenant was asked questions I had which arose when reading the tenant's evidence.

I then heard some testimony from the tenant regarding the issues contained in her application.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation?

Was the respondent listed in this application the correct respondent?

Background and Evidence

The tenant submitted that she was illegally evicted from the rental unit when the landlord listed in this application served the tenant a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "Notice"). The Notice listed as reason was that all of the conditions for sale of the rental unit had 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 tenant said she had evidence that the purchaser did not intend to move in and in fact did not move into the rental unit after the tenant vacated. Due to this, the tenant said she was entitled to receive compensation equal to two months' rent.

The respondent submitted evidence which shows that she notified the tenant in the summer of 2011, that she was selling the property, that the property was sold on December 10, 2011, and that she received a written instructions, as an addendum to the contract for sale, to give the tenant a notice to vacate the property in accordance with section 49 of the Act.

The respondent submitted that after she received this written instruction, she issued the tenant a 2 Month Notice, with an effective move out date of March 1, 2012.

Analysis

Section 49(5) of the Act states that a landlord may end a tenancy by serving the tenant a 2 Month Notice to End Tenancy for Landlord's Use of the Property if landlord may end a tenancy in respect of a rental unit if

> (a) the landlord enters into an agreement in good faith to sell the rental unit,

> (b) all the conditions on which the sale depends have been satisfied, and

> (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:

>> (i) the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;

I find that to be the case here. The purchaser of the rental unit provided specific instructions to the owner, the respondent here, to issue the tenant such Notice.

Section 51(2) of the Act states if the rental unit is not used for the stated purpose for at least 6 months after the effective date, the landlord, *or the purchaser, as applicable under section 49*, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement. (emphasis added)

In the case before me, I find the respondent acted properly in issuing the Notice, as the conditions of the sale were met and the purchaser instructed the respondent in writing to issue such Notice.

As such, I find that the proper respondent to list in the tenant's application seeking compensation would be the purchaser, as indicated in section 51 of the Act.

I therefore dismiss the tenant's application, with leave to reapply, with direction to name the purchaser as the proper respondent and serve her application upon the purchaser.

Conclusion

For the reasons listed above, the tenant's application is dismissed, with leave to reapply under instructions to name the purchaser as the respondent.

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: May 24, 2013

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Residential Tenancy Branch