



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the Tenants' Application for Dispute Resolution (the "Application") made on September 6, 2016. The Tenants applied for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), and to recover the filing fee from the Landlord.

The male Tenant appeared for the hearing and provided affirmed testimony as well as documentary and photographic evidence prior to the hearing. However, there was no appearance for the Landlord during the 18 minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Tenants.

The Tenant testified he served the Landlord with a copy of the Application and the Hearing Package by registered mail on September 9, 2016. The Tenant provided the Canada Post tracking number into evidence to verify this method of service. The Canada Post website shows the documents were delivered to the Landlord's front door on September 13, 2016. Therefore, based on the undisputed evidence before me I find the Tenants completed service pursuant to Section 89(1) (c) of the Act.

Issue(s) to be Decided

Are the Tenants entitled to monetary compensation payable under Section 51(2) of the Act?

Background and Evidence

The Tenant testified this this tenancy started on January 1, 2013 on a month to month basis. Rent was payable by the Tenants in the amount of \$1,150.00 on the first day of each month.

The tenancy was ended when the Landlord served the Tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice") on June 19, 2016. However, the Tenant testified that the tenancy was ended early on August 7, 2016 pursuant to the early end of the tenancy provisions provided by the 2 Month Notice and by Section 50(1) (a) of the Act.

The reason indicated for ending the tenancy on the 2 Month Notice was *"The Landlord has all the necessary permits and approvals required by law to renovate or repair the rental unit in a manner that requires the rental unit to be vacant"*.

The Tenant testified that after they vacated the rental unit, on September 4, 2016 they saw an advertisement for the sale of the rental unit. The Tenants provided a copy of this into evidence and it contains several pictures showing the inside of the property.

The Tenants provided two photographs into evidence that they personally took of the inside of the rental unit at the end of the tenancy and pointed out that the pictures on the advertisement showed the identical condition. The Tenant submitted that this evidence clearly showed the Landlord had not undertaken any renovations or repairs to the rental unit which was the reason why the tenancy was ended.

As a result, the Tenants seek the compensation payable to them under the Act. The Tenant expressed his frustration from having to vacate the rental unit under the 2 Month Notice and stated that the compensation provided for by the Act was not sufficient or enough of a deterrent to stop landlords from ending tenancies in this manner because the financial gain to the Landlord can be easily outweighed by that payable to tenants.

Analysis

Section 51(2) of the Act states:

if (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

(b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, 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.

[Reproduced as written]

Based on the undisputed evidence before me, I accept the Landlord failed to use the rental unit for the use under which the tenancy was ended. I find the Tenant's oral, documentary, and photographic evidence convinces me that the Landlord did not undertake major renovations and repairs to the rental unit. Therefore, I find the Tenants are entitled to two month's rent in compensation payable under the Act in the amount of \$2,300.00.

As the Tenants have been successful in this matter, I also award the Tenants the \$100.00 filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Tenants is \$2,400.00.

The Tenants are issued with a Monetary Order for this amount which must be served on the Landlord. The Tenants may then file and enforce this order in the Small Claims Division of the Provincial Court as an order of that court if the Landlord fails to make payment in accordance with the Tenants' written instructions. Copies of this order are attached to the Tenants' copy of this Decision. The Landlord may also be held liable for any enforcement costs incurred by the Tenants.

Conclusion

The Landlord did not use the rental unit for the reason indicated on the 2 Month Notice which was used to end the tenancy. Therefore, the Landlord is ordered to pay the Tenants \$2,400.00 in compensation inclusive of the filing fee.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 06, 2017

Residential Tenancy Branch

