



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNDC, O

Introduction

This matter dealt with an application by the Tenants in regard to a 2 Month Notice to End Tenancy for Landlord's Use of the Property, for compensation for loss or damage under the Act, regulations or tenancy agreement and for other considerations.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on November 14, 2016. The Tenant provided tracking information on the registered mail package to the Landlord. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Are there losses or damages to the Tenants and are the Tenants entitled to compensation?

Background and Evidence

This tenancy started on July 1, 2011 as a month to month tenancy. Rent was \$1,700.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$850.00 at the start of the tenancy.

The Tenant said the Landlord issued a 2 Month Notice to End Tenancy for Landlord's Use of the Property dated April 25, 2016. The Notice to End Tenancy had an effective vacancy date of June 30, 2016. The reason on the Notice to End Tenancy was that the Landlord or a close family member was moving into the rental unit. The Tenants moved out of the rental unit on June 30, 2016. The Tenants continued to say that the Landlord started painting and replacing the floor coverings before they moved out and a realtor came to the rental unit to inquire about showing the property. The Tenant said shortly after they have moved out of the rental unit the realtor placed a for sale sign on the property and the property sold on September 8, 2016. The Tenants said the Landlord or the Landlord's family did not move into the rental unit. The Tenants said the Landlord evicted them in order to sell the property.

Consequently the Tenants said the Landlord did not act in good faith and did not comply with rules governing a 2 Month Notice to End Tenancy for Landlord's Use of the Property. The Tenants said they are applying for the equivalent of two months rent as compensation for the Landlord not completing the reasons given on the Notice to End Tenancy dated April 25, 2016. The Tenants said they are requesting 2 X \$1,700.00 (monthly rent) in the amount of \$3,400.00 as compensation.

Analysis

Section 51 of the Act says:

51 (1) A tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

(2) In addition to the amount payable under subsection (1), 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.

I accept the Tenants testimony and evidence that the Landlord or a close family member did not live in the rental unit as indicated as the reason for issuing the 2 Month Notice to End Tenancy for Landlord's Use of the Property. Further I accept the Tenants testimony that the Landlord issued the Notice to End Tenancy to facilitate the sale of the property. Consequently I find for the Tenants; pursuant to section 51(2) of the Act and I award the Tenants \$3,400.00 which represents the amount of compensation stated in section 51(2) of the Act.

As the Tenants have been successful in this matter, the Tenants are also entitled to recover from the Landlord the \$100.00 filing fee for this proceeding. I order the Tenants pursuant to s. 51, 67 and 72 of the Act will receive a monetary order for the balance owing as following:

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| Compensation under section 51: | \$ 3,400.00 |
| Recover filing fee | \$ 100.00 |
| Amount owing: | \$3,500.00 |

Conclusion

A Monetary Order in the amount of \$3,500.00 has been issued to the Tenants. A copy of the Order must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 16, 2017

Residential Tenancy Branch