



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- a monetary order for \$15,600 representing 12 times the amount of monthly rent, pursuant to sections 51(2) and 62 of the Act; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:44 pm in order to enable the tenant to call into the hearing scheduled to start at 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the landlord and I were the only ones who had called into the hearing.

The landlord testified that he received the tenant's notice of dispute resolution proceeding package and documentary evidence. He testified that his son provided copies of his documentary evidence to the tenant.

Issues to be Decided

Is the tenant entitled to:

- 1) a monetary order of \$15,600;
- 2) recover the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's testimony and my findings are set out below.

The tenant and the prior owner of the rental unit entered into a parties entered into a tenancy agreement. Monthly rent was \$1,300.

On May 13, 2021, the prior owner and the landlord entered into a contract of purchase sale for the rental unit. On June 11, 2021, the landlord provided the prior owner with a "Buyers Notice to Seller for Vacant Possession", which indicated that he or a close family member intended in good faith to occupy the rental unit, and required vacant possession of the rental unit on September 1, 2021.

On June 6, 2021, the prior owner served the tenant with a two months notice to end tenancy for landlords use (the "**Notice**") which indicated that the tenancy was being ended because the purchaser of the rental unit required vacant possession for a close family member to occupy it.

The landlord was unsure when the tenant vacated the rental unit, but indicated that he took possession of the rental unit on September 15, 2021, and that the tenant was not occupying it on that date.

The landlord testified that the rental unit required significant renovations before it was be suitable for his son's occupancy. He stated that it required a full renovation and that he spent roughly \$41,000 and undertaking these renovations. The renovations started in November 2021 and were not completed until June 2021. He provided a letter from his contractor confirming this.

The landlord testified that there were delays during the renovations due to supply shortages caused by the COVID-19 pandemic. He testified that his son moved into the rental unit by the end of June 2021 and that he continues to reside there. In support of this, the landlord is submitted phone bills, vehicle registration, and a copy of his son's drivers license. These documents all the rental unit as the landlord's son's address.

Analysis

Section 51(2) of the Act forms the basis for the tenant's application. It states:

Tenant's compensation: section 49 notice

(2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if the landlord or purchaser, as applicable, does not establish that

- (a) the stated purpose for ending the tenancy was accomplished within a reasonable period after the effective date of the notice, and
- (b) the rental unit, except in respect of the purpose specified in section 49 (6) (a), has been used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

The Notice was issued in accordance with section 49 of the Act, so the tenant is eligible for compensation pursuant to section 51(2) of the Act.

Section 51(2) of the Act place the burden of proof on the landlord to establish that the rental unit was used for the purpose stated on the Notice. As such, despite the tenant's nonattendance, the landlord must still satisfy me that the requirements of the Act have been met.

I accept the landlords undisputed testimony, in its entirety. It was supported by documentary evidence, and I found the landlord to be credible while testifying. I accept that his son currently lives in the rental unit, and that he has done so since the end of June 2021.

I am satisfied that the landlord started renovations which would allow his son to occupy it the rental unit within a reasonable time after the effective date listed on the Notice. I find that such renovations are sufficient to satisfy the requirement that the rental unit be considered used for the purpose stated on the Notice.

Despite the fact that the landlord's son was not living in the rental unit during the renovations, I find that the act of renovating the rental unit to make it suitable for occupation for his son amounts to the landlord occupying the rental unit for a residential purpose. Home renovations are not uncommon occurrence, and are consistent with a home being used for residential purposes.

The fact that the son started living in the rental unit once the renovations were completed demonstrates that the renovations were made for a residential purpose, and not for the reason of improving the rental unit so that it could be result at a higher price.

I find that not only did the landlord occupied the rental unit within a reasonable period of time, but that he continued to do (as these renovations amounted to occupying for a residential purpose, as stated above) so for at least six months after the effective date of the Notice.

As such, I find that the landlord has complied with his obligations under the Act.

Conclusion

I dismiss the tenant's application without leave to reapply.

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: February 24, 2023