



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (Act) for a monetary order for \$6,600 representing 12 times the amount of monthly rent pursuant to sections 51(2) and 62 of the Act.

This matter was reconvened from a prior hearing on November 14, 2022. I issued an interim decision setting out the reasons for the adjournment on November 28, 2022 (Interim Decision). This decision should be read in conjunction with the Interim Decision.

The tenant attended this hearing. The landlord did not.

Issue to be decided:

- 1) Did the landlord use the rental unit for the purpose stated on the Two Month Notice to End Tenancy for Landlord's Use (Notice)?
- 2) If not, is the tenant entitled to a monetary order equal to 12 times her monthly rent?

Background and Evidence

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

The tenant and the prior owner of the rental unit entered into a verbal tenancy agreement starting July 1, 2015. Monthly rent was \$550. The tenant did not provide a security or pet damage deposit.

On November 29, 2021, the daughter-in-law of the prior owner served the tenant with the Notice. It specified an effective date of January 31, 2022. The Notice stated that the rental unit had been sold and the purchaser had asked the prior owner to serve the

tenant with the Notice because he or a close family member intended in good faith to occupy the rental unit. It listed the landlord as the purchaser of the rental unit.

The prior owner attached an e-mail from the landlord's realtor which stated "as my buyers have removed the subjects for [the rental unit] they want a clean and clear vacant possession of the property on or before the possession date."

The tenant testified she moved out of the rental unit on January 31, 2022. In March 2022, the tenant testified that her daughter discovered postings for the rental unit on Craigslist for re-rent for \$1,500 per month. She submitted screenshots of these posts into these into evidence. She argued that this indicates that the landlord did not move into the rental unit as the Notice indicated he was going to do.

Analysis

Section 51(2) of the Act forms the basis for the tenant's application. It sets out the circumstances where a purchaser of a rental unit may be required to pay an amount equal to 12 times the tenant's monthly rent to a tenant who received a two month notice to end tenancy for the purchaser's use. The purchaser must establish that the rental unit was used for the purpose listed on the notice within a reasonable time after the tenancy ended and for at least six months. If the landlord cannot do this, and if they cannot prove that "extenuating circumstances" existed, the purchaser must pay the tenant 12 times their monthly rent.

Section 51(2) of the Act assigns the burden of proof to the purchaser. As the purchaser did not attend the hearing, he failed to present any evidence which might discharge this burden.

Furthermore, based on her testimony and the evidence submitted, I find that the tenant has established that it is more likely than not that the rental unit was not used for the purpose stated on the Notice within a reasonable time after the tenancy ended, or at all.

I find that the landlord re-rented the rental unit after obtaining vacant possession. I do not find that the landlord or a close family member occupied the rental unit after the tenant moved out.

Accordingly, the tenant is entitled to a monetary order of \$6,600 (\$550 x 12).

Conclusion

The tenant is successful in her application.

I order the landlord to pay the tenant \$6,600.

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: April 4, 2023

Residential Tenancy Branch