



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: MNDC, FF

## Introduction

This matter dealt with an application by the Tenants for a Monetary Order for compensation for damage or loss under the Act or tenancy agreement and to recover the filing fee for this proceeding.

## Issue(s) to be Decided

1. Are the Tenants entitled to compensation for damages and if so, how much?

## Background and Evidence

This tenancy started February 1, 2007 and was to expire on January 31, 2010 but ended at the end of February 2008. Rent was \$750.00 per month. On or about December 8, 2007, the Landlord served the Tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property dated December 8, 2007. The Notice alleged the following grounds for ending the tenancy:

- The rental unit will be occupied by the landlord's spouse or a close family member of the landlord or the landlord's spouse; and
- The Landlord has all the necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The Tenants argued that the Landlord did not reside in the rental unit after the tenancy ended but rather re-rented it to new tenants as early as March 15, 2008 who were not related to him. The Tenants claim that the new tenants viewed the rental property the day after they moved out. The Tenants also claimed that the new tenants told them that during the first 6 weeks that they occupied the rental unit, the Landlord did a number of plumbing repairs that were supposed to have been completed before they moved in. The Tenants argued that they only agreed to move out because the Landlord said he intended to live there.

The Landlord admitted that the new tenants were not related to him but claimed that when he gave the Notice to the Tenants, he had received an offer to work in the area from a friend and intended to live there for that reason. However, at some point, the Landlord said his friend could not guarantee that the short-term work would be renewed and therefore he decided not to move. The Landlord claimed that the new Tenants had possession of the unit as of March 15, 2008 but did not move into it until approximately the middle of April, 2008. The Landlord also claimed that he did a number of plumbing repairs while the rental unit was unoccupied.

### Analysis

Section 51 of the Act states that if a Landlord does not take steps to accomplish the stated purpose for ending the tenancy under s. 49 within a reasonable period after the effective date of the notice or the rental unit is not used for that stated purpose for at least 6 months the Landlord must pay the Tenant an amount that is equivalent to double the monthly rent payable under the tenancy agreement.

I find that there is sufficient evidence that the Landlord made repairs to the rental unit for a period of time while it was unoccupied. Whether vacant possession was necessary to do the repairs is irrelevant to this matter but would have been relevant if the Tenants disputed the Notice prior to the end of the tenancy. However, by indicating 2 grounds on the Notice to End Tenancy, the Landlord must also be able to show that the rental unit was used for the other purpose stated on the Notice for at least 6 months following the end of the tenancy.

The Landlord claimed that he issued the Notice in good faith and only changed his mind about residing in the rental unit after the notice was issued. I find, however, that the Landlord showed the rental unit to the new tenants only one day after the end of the tenancy and gave the new tenants possession of it 2 weeks later. Consequently, I conclude that the Landlord changed his mind about residing in the rental unit before the tenancy ended and therefore had a duty to advise the Tenants that one of the reasons for issuing the Notice no longer existed. This would at least have given the Tenants the option of disputing the Notice if they felt the other ground was unwarranted; ie. if they felt vacant possession of the rental unit wasn't required to do repairs.

By ending the tenancy with a Notice to End Tenancy for Landlord's Use of the Property and failing to use the rental unit for one of the purposes stated on the notice (ie. to occupy the rental unit within 6 months of the end of the tenancy), I find that the Landlord breached s. 51 of the Act and must compensate the Tenants for double the amount of monthly rent or \$1,500.00. As the Tenants have been successful in this matter, they are entitled to recover their \$50.00 filing fee.

### Conclusion

A Monetary order in the amount of \$1,550.00 has been issued to the Tenants and a copy of it must be served on the Landlord. If the amount of the order is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.