



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, O

### Introduction

This matter dealt with an application by the Tenant for compensation for loss or damage under the Act or tenancy agreement.

### Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so, how much?

### Background and Evidence

This tenancy started in September 1991 and ended on July 31, 2009. Rent was \$415.20 per month. The Tenant said he had to move out because he was served with a 2 Month Notice to End Tenancy for Landlord's Use of Property. A copy of the Notice was not provided as evidence at the hearing but the Tenant said that it stated that the Landlord required vacant possession to make renovations or repairs.

The Tenant said that the Landlord repaired a number of balconies in the rental property including one he shared with the neighbouring tenant. The Tenant also said that the Landlord painted his rental unit and installed new carpeting. The Tenant argued that these repairs or renovations did not require vacant possession and noted that no other tenants who were affected by the repairs were asked to give vacant possession.

The Landlords claimed that the 3<sup>rd</sup> floor balconies in the rental property were counter-levered into the 2<sup>nd</sup> floor ceilings and therefore the Landlords believed that workmen would need to have a lot of access to the 2<sup>nd</sup> floor units. The Landlord claimed that there was one vacant unit on the 2<sup>nd</sup> floor as well as the Tenant and the caretaker. The Landlord said that the Tenant and his daughter who resided with him were uncooperative on a number of other matters and as a result, she did not believe that they would allow access to the rental unit as needed to make the repairs unlike the caretaker.

The Tenant claimed that the Landlord never before advised him that his daughter was problematic. The Tenant also argued that the events referred to by the Landlord where



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Housing and Social Development

he was allegedly uncooperative arose because the Landlord had tried to take away 2 designated parking spots that he had had for 16 years.

## Analysis

Compensation under s. 51 of the Act can only be awarded to a Tenant where a valid and enforceable notice is served on him. Neither party provided a copy of the 2 Month Notice to End Tenancy for Landlord's Use of Property as evidence at the hearing and in the circumstances I am unable to conclude that an authorized or enforceable Notice was served on the Tenant. Consequently, even if the Tenant was able to show that vacant possession was not necessary for the Landlord to make the repairs in question, I would not be able to award him compensation because there is no evidence that he was served with an enforceable Notice (that required him to move).

## Conclusion

The Tenant's application is dismissed 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: October 28, 2009.

---

Dispute Resolution Officer