



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes            MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for money owed or compensation for loss or damage under the *Act*, regulation or tenancy agreement and a Monetary Order to recover the filing fee.

The tenants served the respondents with a copy of the Application and Notice of Hearing. I find that the respondents were properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both Parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

Are the tenants entitled to the equivalent of two months' rent in compensation and to recover the filing fee paid for this application under sections 51 and 72 of the Residential Tenancy Act (Act).

### Background and Evidence

The tenants rented this basement suite from the previous landlord at a monthly rent of \$920.00 including utilities. The tenants were issued a Two Month Notice to End Tenancy on or about March 23, 2009. The landlord had sold the property and the new owners (the respondents) asked the landlord in writing to give the tenants notice to end the tenancy as they intended to occupy the entire house including the basement suite.

Residential Tenancy Branch  
Ministry of Housing and Social Development

The tenants claim that they received their last month's rent in compensation for the Two Months Notice and moved from the rental suite on May 30, 2009. The tenants claim that three days later they saw the suite advertised on Craig's List at a monthly rent of \$1,300.00. After speaking to the new owners of the house they discovered the suite was re-rented for \$1,300.00 sometime in August or September, 2009.

The tenants argue that they were evicted under false pretences and if the new owners did not intend to use the suite for their own use or the use of a close family member they should have been able to stay in the suite.

The respondents claim that when they asked the landlord to serve the tenants with a Two Month Notice to End Tenancy they did intend in good faith to occupy the whole house. The respondent claims that her sister, niece and nephew were going to move into the suite and live there as part of their family group; however, this did not work out and her sister decided not to move with them. The respondents do not dispute that they have since re-rented the suite on August 15, 2009.

## Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. I find that s. 51 of the *Act* states that if a landlord or purchaser does not take steps to accomplish the stated purpose for ending the tenancy under s. 49 of the *Act* 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 or purchaser 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 purchasers of the property did ask the landlord to give the tenants two months notice as they intended to occupy the whole property. It is irrelevant whether or not the purchaser's sister and her family were also planning to occupy the house as a family group as it would have no bearing on the reason given on the two month

Residential Tenancy Branch  
Ministry of Housing and Social Development

notice. The fact remains that the rental suite has not been used for the intended purpose as stated on the Notice. The purchasers argue that they acted in good faith when they asked the landlord to evict the tenants; however, I find this argument bears little weight as it was their decision to advertise and re-rent the suite after taking possession even though they stated that they intended to occupy the entire house. Consequently, I conclude that the purchasers did instruct the landlord to end the tenancy with a Notice to End Tenancy for landlord's Use of the Property and have failed to use the rental unit for the purpose stated on the notice (i.e. the purchaser or a close family member, intends in good faith to occupy the rental unit. Therefore, I find that the respondents are in breach of s. 49(5)(c) of the *Act*.

I further find that pursuant to s. 51 of the *Act* that the tenants are entitled to compensation to an amount that is equivalent to double the monthly rent payable under the tenancy agreement. If damage or loss results from a party not complying with the *Act*, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party pursuant to s. 67 of the *Act*. As such I find the tenants are entitled to a Monetary Order to the amount of **\$1,840.00**. As the tenants have been successful in this matter, they are also entitled to recover their **\$50.00** filing fee pursuant to section 72(1) of the *Act*.

## Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$1,890.00**. The order must be served on the respondents and is enforceable through the Provincial Court as an order of that Court.

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: January 06, 2010.

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Dispute Resolution Officer