

## **DECISION**

Dispute Codes      MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Landlord for this application.

Service of the hearing documents, by the Tenants to the Landlord, was done in accordance with section 89 of the Act, sent via registered mail on May 14, 2010. The Landlord confirmed receipt of the hearing package.

The Landlord, his Agent, and the female Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issues(s) to be Decided

Are the Tenants entitled to a Monetary Order pursuant to Section 67 and 72 of the *Residential Tenancy Act*?

### Background and Evidence

The undisputed testimony was the fixed term tenancy agreement was effective March 1, 2009 and was set to switch to a month to month tenancy after March 1, 2010. Rent was payable on the first of each month in the amount of \$1,800.00 and the Tenants paid a security deposit of \$900.00 on February 12, 2009. The rental property was sold and title transferred to the new Landlord on approximately December 1, 2009. The new Landlord issued a 2 Month Notice to End Tenancy December 4, 2009. The Landlord's

Agent served the 2 Month Notice personally to the female Tenant on December 4, 2009.

The Tenant testified that they vacated the rental unit in accordance with the 2 Month Notice however the Landlord failed to provide the Tenants with the required compensation that is equal to one month's rent. They sent the Landlord a letter via regular mail on April 2, 2010 requesting the \$1,800.00 compensation and when they did not hear back from the Landlord the male Tenant called the Landlord to offer one last chance for payment before they filed their application. The Landlord refused to pay so they filed their application on May 12, 2010.

The Landlord confirmed service of the 2 Month Notice to the Tenants. He confirmed having the telephone conversation with the male Tenant and refusing to pay the one month compensation. He argued that he should not have to pay anyone for the benefit of living in his own home.

The Agent testified that she was given mis-information from their real estate agent as they thought they were not required to pay the compensation because they were not asking the Tenants to vacate the unit prior to the end of their lease. She stated that she now understood this information was incorrect. The Agent requested a copy of my decision be sent to her at the address listed on the first page.

### Analysis

All of the testimony and documentary evidence was carefully considered.

Section 51 (1) of the Act states that a tenant who receives a notice to end a tenancy under section 49, (Landlord's use of property) is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement. The evidence supports a Notice was issued by the Landlord to the Tenants, pursuant to section 49 of the Act,

therefore the Tenants are entitled to compensation equal to one month's rent. Based on the aforementioned I hereby approve the Tenants' claim in the amount of \$1,800.00.

The Tenants have been successful with their application; therefore I award recovery of the \$50.00 filing fee.

Conclusion

I HEREBY FIND in favor of the Tenants' monetary claim. A copy of the Tenants' decision will be accompanied by a Monetary Order for **\$1,850.00** (\$1,800.00 + \$50.00). The order must be served on the respondent 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: September 29, 2010.

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Dispute Resolution Officer