



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing.

At the hearing the respondent testified that he had never been the tenant's landlord. The respondent is the purchaser of the rental unit in question and was named as a respondent pursuant to sections 49(1) and 51(2) of the Act. I found that the respondent was properly named as a respondent and the claim may proceed against him in this forum. I have identified the respondent as such throughout this decision and where the term "landlord" is used, it is used to refer to the vendor of the rental unit, who acted as the landlord during the term of the tenancy.

### Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

### Background and Evidence

The tenant testified that the landlord served her with a 2 month notice to end tenancy (the "Notice") in late April or early May of 2008. The Notice took effect June 30, 2008 and purported to end the tenancy because the rental unit had been sold and the purchaser intended to occupy the rental unit. Although the tenant asked the respondent if she could stay later than June 30, that request was denied. After the tenancy ended the rental unit was demolished and a new home built. The tenant seeks compensation

pursuant to 51(2) of the Act which provides that if the rental unit is not used for the stated purpose, the landlord or purchaser must pay the tenant double the monthly rent.

The tenant seeks to recover moving expenses, the rental of a temporary storage shelter, unpaid hydro and gas, the cost of holding her mail, the value of plants and a shed as well as her filing fee and the cost of sending documents via registered mail to the respondent.

The respondent provided a copy of the contract of purchase and sale and testified that he clearly instructed the landlord to end the tenancy based on his intention to demolish the rental unit. The respondent readily admitted that he was responsible for gas and hydro bills for any period after June 30.

### Analysis

In order to prove her claim against the respondent, the tenant must prove on the balance of probabilities that the landlord was given instruction to end the tenancy for the purpose identified on the Notice. The contract of purchase and sale provides as follows:

The Seller will give legal notice to the Tenant to vacate the premise [sic] but only if the Seller receives the appropriate written request from the buyer to give such notice in accordance with the requirements of section 49 of the Residential Tenancy Act.

Vendor agrees to give authorization to the buyer to get the survey done of the property at buyer's expense.

Vendor also agrees to give authorization to the buyer to proceed with any permits from the city hall at buyer's expense.

The respondent claimed that this contract expressed his clear instruction to give notice to the tenants indicating that the rental unit would be demolished. I find that the contract of purchase and sale is very unclear. In the absence of testimony from the landlord acknowledging that he was instructed to give notice indicating that the respondent would be occupying the rental unit, I am unable to find that the landlord was given clear instruction to indicate occupation rather than demolition on the Notice. I find that the

tenant has failed to prove that the respondent was the party who violated the Act. Under ordinary circumstances the tenant would be free to pursue a claim against the landlord, but as section 60(1) of the Act provides that a claim ceases to exist 2 years after the end of the tenancy, the tenant is statute-barred from bringing a claim against the landlord.

My authority to adjudicate disputes arises from the Act and is generally limited to disputes between landlords and tenants. The tenant's claim for compensation under section 51 is the only claim I can consider against the respondent as their relationship is not that of landlord and tenant. The parties are free to settle issues such as payment of utilities and the return of the shed to which the respondent agreed and any further claims fall within the jurisdiction of the Small Claims Court.

### Conclusion

The tenant's claim is dismissed.

Dated: November 16, 2010

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Dispute Resolution Officer