



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties were represented at the conference call hearing.

The landlord/respondent in this action is the party who purchased the rental unit in 2010. Although no evidence as provided as to whether this party actually acted in the capacity as landlords, I have referred to them as landlords in this decision. I note that pursuant to section 51(2) of the Act, the tenant may act against a purchaser in this forum.

### Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that in early 2010 the tenant was served with a 2 month notice to end tenancy which purported to end the tenancy because the rental unit had been sold and the purchaser intended to occupy the rental unit. The landlords acknowledged that they had given the vendor a written request to end the tenancy because they intended to occupy the rental unit. The tenant vacated the unit pursuant to the notice to end tenancy.

Pursuant to section 51(2), the tenant seeks compensation equivalent to double his monthly rent because the landlords are not residing in the rental unit.

The landlords agent testified that they purchased the unit with the intention of residing therein, but had an inspection performed which revealed significant problems with the rental unit. The landlords have obtained estimates to perform repairs and discovered that it would cost \$40,000 to perform repairs in order to bring the unit up to the standards they require to reside therein. The landlords' agent testified that the landlords do not have the money required to repair the unit and therefore the rental unit has remained empty and the landlords have continued to reside in the apartment they rent.

### Analysis

Section 51(2) of the Act provides as follows:

51(2) In addition to the amount payable under subsection (1), if

51(2)(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

51(2)(b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,

the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

The landlords claim that they have complied with section 51(2)(a) of the Act and have taken steps to accomplish the purpose stated on the notice to end tenancy. I disagree. The steps taken by the landlords have not been steps to accomplish the stated purpose, but to determine whether it was feasible to accomplish the stated purpose. I find that the landlords have failed to take steps to move into the rental unit and accordingly I find that the landlords are liable under section 52(2) to pay the tenant \$1,300.00, which is double the \$650.00 per month rent the tenant paid during the tenancy. I further find that the tenant is entitled to recover the \$50.00 filing fee paid to bring his application. I award the tenant \$1,350.00.

### Conclusion

I grant the tenant a monetary order under section 67 for \$1,350.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced 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: April 19, 2011

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Residential Tenancy Branch