



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This conference call hearing was convened in response to the tenant's application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the filing fees associated with this application.

The tenant participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the landlord by way of registered mail, and provided a Canada Post tracking number. The landlord did not participate and the hearing proceeded in the landlord's absence.

### Issue(s) to be Decided

Is the tenant entitled to a Monetary Order, and for what amount?

Is the tenant entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a basement suite in a single detached home. The tenancy started in February 2010 and the rent was \$1050.00 per month.

The tenant testified that the landlord passed away mid November 2011 and that the landlord's sister became the executrix and became the tenant's new landlord. The tenant stated that the landlord served her with a 2 Month Notice to End Tenancy dated May 26, 2011, with an effective date of August 1, 2011. In her documentary evidence, the tenant provided a copy of the Notice to End Tenancy, showing for reason that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member. The tenant said that the landlord listed the property for sale about the same time she was served with the Notice. She stated that she spoke with the real estate agent, and confirmed that the property remains unoccupied and that it is still for sale. The tenant said that the landlord lives in Kelowna.

### Analysis

I accept the tenant's undisputed testimony that she served the landlord with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the landlord knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 51(2) of the Act states in part that if steps have not been taken to accomplish the stated purpose for ending the tenancy, or the rental unit is not used for the stated purpose within at least 6 months after the effective date of the notice, the landlord must pay the tenant an amount equivalent to double the monthly rent payable under the tenancy agreement.

On the evidence I find that the landlord did not use the property for the stated purpose. The house is listed for sale, and to date has not been occupied as required by the notice to end tenancy. Accordingly the tenant is entitled to an equivalent of double the monthly rent.

### Conclusion

The tenant established a claim of \$2100.00. Since she was successful, the tenant is entitled to recover the \$50.00 filing fee and pursuant to Section 67 of the Act, I grant the tenant a monetary order totalling \$2150.00.

This Order may be registered in the Small Claims 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: March 27, 2012.

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Residential Tenancy Branch