



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNDC

### Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

A previous file was opened in a related dispute between these parties.

The month-to-month tenancy began in October 2010. Monthly rent of \$800.00 was payable in advance on the first day of each month. Pursuant to section 49 of the Act which addresses **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice to end tenancy dated May 3, 2011. Thereafter, the tenant vacated the unit on June 30, 2011. A copy of the notice was submitted in evidence. Reasons shown on the notice for its issuance are as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The tenant testified to her understanding which is that the landlord's uncle would be occupying the unit after she vacated, however, the landlord testified that his intention was that his brother would occupy the unit. In any event, neither of these two individuals subsequently occupied the unit and it was rented out to individuals who are not related to the landlord or to the landlord's spouse. The landlord testified that circumstances changed in his brother's life such that he no longer required the unit. Notwithstanding, the tenant seeks compensation equivalent to double the monthly rent

pursuant to the statutory provisions set out in section 51 of the Act which addresses **Tenant's compensation: section 49 notice**.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 49 of the Act, as earlier noted above, defines “**close family member**” as follows:

49(1) In this section:

“close family member” means, in relation to an individual,

- (a) the individual's father, mother, spouse or child, or
- (b) the father, mother or child of that individual's spouse.

Section 51 of the Act, as previously cited above, provides in part:

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

- (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
- (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.

Based on the documentary evidence and testimony, I find that the person intended by the landlord to occupy the unit after the tenant's tenancy ended, is not a "close family member" as defined by the Act. I also find that the unit was not used for the purpose stated on the notice for any period of time whatsoever after the tenant vacated. In the result, I find that the tenant has established entitlement to compensation in the amount of \$1,600.00, which is the equivalent of "double the monthly rent payable under the tenancy agreement" (2 x \$800.00).

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$1,600.00**. Should it be necessary, this order may be served on the landlord, filed 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: April 18, 2012.

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Residential Tenancy Branch