



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNDC

### Introduction

This hearing dealt with an application by the tenant seeking a monetary order for money owed or compensation for damage or loss under the Act, regulation or the tenancy agreement. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the tenant entitled to a monetary order?

### Background and Evidence

The tenancy began on or about August 7, 2009 and ended on May 31, 2012. Rent in the amount of \$1000.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$500.00.

Both parties agreed to the following; the landlord served a Two Month Notice to End Tenancy for Landlord's Use of Property to the tenant on March 20, 2012 with an effective date of May 31, 2012. The basis of the notice was given so that the landlord or the landlord's spouse or a close family member was to occupy the unit. The landlord was intending on moving in himself. The tenant was given the proper compensation as is required with this notice.

The tenant gave the following testimony; discovered the property was up for sale just two weeks after moving out, feels the landlord did not act in good faith, landlord had the

property for sale for most of 2012, the tenants accommodated in the showings in keeping the unit clean and the grass cut, feels the landlord evicted them because the house wasn't selling and it would be easier if it was vacant, and is seeking compensation in the amount of \$3000.00.

The landlord gave the following testimony; fully intended to move in but a series of health problems that began in January 2012 changed those plans, acknowledges that the house went up for sale on June 15, 2012, took it off the market on July 15, 2012 as his health is improving and is considering moving in, a friend is house sitting at this time, does not reside there himself as of today's date, feels the notice is given for "landlords use is a very broad term and should be allowed to use it as needed".

### Analysis

#### **Tenant's compensation: section 49 notice**

**51** (1) 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.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

(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.

In the landlords own testimony he acknowledges that the property went for sale two weeks after the tenant's moved out. Section 51(2) of the Act outlines that this is in contravention of the stated purpose of the notice. I find the tenant is entitled to the equivalent of two months' rent as compensation for an amount of \$2000.00

The tenant was seeking an additional \$1000.00 for moving costs. The Act does not prescribe for this cost and as such I dismiss this portion of the tenant's application.

As for the monetary order, I find that the tenant has established a claim for \$2000.00. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant an order under section 67 for the balance due of \$2050.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The tenant is granted a monetary order for \$2050.00.

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: October 15, 2012.

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Residential Tenancy Branch