



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNDC

### Introduction

This hearing concerns an application by the tenants 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 tenants are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began in December 2011. Monthly rent of \$1,400.00 is due and payable in advance on the first day of each month, and a security deposit of \$700.00 was collected.

Pursuant to section 49 of the Act which speaks to **Landlord's notice: landlord's use of property**, the landlords issued a notice to end tenancy dated June 29, 2012. A copy of the notice was submitted in evidence. The reason shown on the notice for its issuance is as follows:

All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The date shown on the notice by when the tenants must vacate the unit is August 31, 2012.

Thereafter, by letter dated July 5, 2012, the tenants gave 10 days notice of their intent to end the tenancy effective July 15, 2012, which they subsequently did. During the

hearing the parties confirmed that the disposition of the security deposit was settled between them at the end of tenancy.

Further to all of the above, apparently at the suggestion of a realtor the parties also signed a "Mutual Agreement to End a Tenancy" (the "form.") The date shown on the form by when the tenants will vacate the unit is July 15, 2012, which is the same date identified by the tenants as the end date for tenancy in their 10 day notice. There appears to be no disagreement that at some point the landlords gave the form to the tenants in order to sign and return to them at a later date. The form is shown as dated and signed on June 29, 2012, however, the tenants claim that it was back-dated by the landlords after the tenants had affixed their signatures in July.

Following from the tenants' 10 day notice, while the landlords refunded the tenants for rent of \$700.00 for the period from June 16 to 30, 2012, the tenants object that the landlords have not paid them the "equivalent of one month's rent payable under the tenancy agreement" as a consequence of the 2 month 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 50 of the Act speaks to how a **Tenant may end tenancy early following notice under certain sections**, as follows:

50(1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

- (a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and
- (b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 [*tenant's compensation: section 49 notice*].

Section 51 of the Act speaks to **Tenant's compensation: section 49 notice**, in part:

51(1) A tenant who receives 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.

While the form may have provided some comfort to the landlords (and the realtor) that the tenancy would indeed end on July 15, 2012, as per the tenants' 10 day notice, I find there is insufficient evidence that the parties entered into any agreement pursuant to which the landlords were ultimately relieved of the statutory obligation set out immediately above in section 51 of the Act. Accordingly, I find that the tenants have established entitlement to compensation of \$1,400.00, which is "the equivalent of one month's rent payable under the tenancy agreement," and I hereby issue a monetary order in favour of the tenants to that effect.

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$1,400.00**. Should it be necessary, this order may be served on the landlords, 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: October 30, 2012.

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Residential Tenancy Branch