



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, FF

### Introduction

This was an application by the tenant for a monetary order, including compensation from the landlord equivalent to double the monthly rent payable under the tenancy agreement pursuant to section 51(2) of the *Residential Tenancy Act* (Act) and for recovery of his filing fee for this application. The hearing was conducted by conference call; the tenant participated as did the landlords.

### Issue(s) to be Decided

Is the tenant entitled to compensation pursuant to section 51(2) of the *Residential Tenancy Act*

Is the tenant entitled to any additional damages?

### Background and Evidence

The rental unit is a duplex apartment in North Vancouver. On May 28, 2012 the landlords served the tenant with a two month Notice to End Tenancy for landlord's use. The Notice required the tenant to move out of the rental unit by July 31, 2012. The stated ground for the Notice was that the landlord intends to convert the residential property to strata lots. When the Notice was given the monthly rent was \$1,280.00. The tenant accepted the Notice and moved out of the rental unit. The tenant testified that she discovered that the rental property has not been stratified and that the landlord sold the property to new owners in April, 2012 before the Notice to End Tenancy was given. The tenant testified that there is a pending application with the city but the application is now in the name of the new owner and the city has not approved the conversion into strata lots. She has learned that the new owner has re-rented the rental. The tenant claimed that were it not for the landlords' illegal notice the tenancy would have passed with the sale of the property and she could have continued renting the unit from the new owners.

The landlord testified that the rental property was sold in April, but she was paid a down payment and she continued to have an interest in the property until the sale was concluded. She maintained that the Notice to End Tenancy was properly given because the landlord was involved in the stratification process before the sale was finally concluded in August.

### Analysis

Section 51(1) of the Act requires that a landlord who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (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.

The applicants seek payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the landlord has not taken steps to accomplish the stated purpose for ending the tenancy.

Upon the evidence before me it is my finding that the applicant is entitled to the compensation sought. The landlords' sale of the property in April 2012 was incompatible with the Notice to End Tenancy given by the landlord in May. I note that the landlords did not produce any documents to support their position on this application and I draw an adverse inference from the landlord's failure to provide a copy of the agreement of purchase and sale; it appears that the landlords gave the tenant a Notice to End Tenancy that properly should have been given by the purchaser after the sale completed. I note that more than six months have passed since the effective date of the Notice and the property continues to be rented without having been converted to strata units. I find that the landlords must pay to the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement. The tenant claimed damages equal to a further ten months rent; there is no basis for this claim. Section 51 of the Act provides a statutorily mandated amount of compensation that will be payable

upon a breach of the legislation and there is no basis for an additional award of damages.

Conclusion

The monthly rent was \$1,280.00. The tenant was partially successful in her claim; she is entitled to recover \$50.00 of the \$100.00 paid for this application for a total award of \$2,610.00 and I grant the tenant an order under section 67 in the said amount. This order may be 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: March 19, 2013

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Residential Tenancy Branch

