



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC, FF

### **Introduction**

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the respondent by mailing, by registered mail on April 24, 2013 to where the respondent carries on business. The tenant testified the documents were not returned. With respect to each of the applicant's claims I find as follows:

### **Issues to be Decided**

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

### **Background and Evidence:**

The tenancy began in 1996 and ended on March 31, 2012 pursuant to a 2 month notice to end tenancy for landlord's use (the "Notice"). The Notice to End Tenancy is dated January 29, 2012 and sets the end of tenancy for March 31, 2012. It was served at the end of January 2012. The reason set out in the Notice was that "all 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 Tenant states that the rental unit was never occupied by the purchaser and that the rental unit was demolished on July 2012. The Tenant states that the unit was on a double lot and that there are now two new houses on that lot.

The Tenant applied for an order for the equivalent of double the monthly rent payable under the tenancy agreement pursuant to section 51(2) of the Residential Tenancy Act naming his landlord as a respondent. A hearing was held on March 14, 2012 and the arbitrator ruled that the Tenant should be bringing this claim against purchaser as it was the purchaser who provided the notice to the landlord that she intended to move in. The claim against the tenant's landlord was dismissed but the tenant was given leave to re-apply against the purchaser.

The rent is \$1200 per month payable on first day of each month. The tenancy ended on March 31, 2012. .

#### SECTION 51 OF THE RESIDENTIAL TENANCY ACT:

Section 51 of the Residential Tenancy Act provides as follows:

Tenant's compensation: section 49 notice

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.

#### Analysis:

I determined the tenant is entitled to the order that he is seeking. The tenancy was ended pursuant to a 2 month Notice to End Tenancy that provided that the rental unit had been sold and that the all 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 rental unit was not used for the stated purpose for at least 6 months beginning within a reasonable period after the effective date of the Notice. The purchaser failed to move into the rental unit as was indicated on Notice. It is now impossible to move into the rental unit as it was demolished 3 months later. As a result I determined the tenant has established a claim for the equivalent of 2 months rent or the sum of \$2400.

Monetary Order and Cost of Filing fee

**I ordered the landlord(s) to pay to the tenant the sum of \$2400 plus the sum of \$50 in respect of the filing fee paid pursuant to section 49 for a total of \$2450.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: May 23, 2013

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Residential Tenancy Branch

