



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0794965 B.C. Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, FF

### 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, the 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 March 1, 2012 and ended on September 20, 2012. Rent in the amount of \$850.00 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 \$425.00.

The tenants gave the following testimony:

The landlord issued a Two Month Notice to End Tenancy for Landlords use of Property on August 31, 2012 with an effective date of October 31, 2012. The notice was issued on the basis of "The rental unit will be occupied by the landlord or the landlords' spouse or a close family member (father, mother, or child) of the landlord or the landlords' spouse". The tenants were duly compensated the equivalent of one months' rent. The tenants stated that the landlord is using the house as a "show suite" to sell condos that

he's building at the back of the property and not as stated in the notice. The tenants seek the compensation pursuant to Section 51 of the Act.

The landlords gave the following testimony:

The landlords stated that they have provided the equivalent of two months' rent as compensation to the tenants. The landlords stated that the house is being used by the owner as a construction office.

### Analysis

Although the landlords stated they have already given the tenants the equivalent of two months' rent as compensation, they were unable to provide sufficient evidence to support that claim. In the landlords' agent's own testimony they acknowledged that the home has remained unoccupied since the tenants moved out and has been converted into a "construction office".

Section 51 of the Act clearly addresses the issue before me as follows:

(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.**

Based on all of the above I find that the landlord is in breach of Section 51 of the Act and that the tenant is entitled to compensation in the equivalent of two months' rent -  
 $\$850.00 \times 2 \text{ Months} = \$1700.00$ .

As for the monetary order, I find that the tenant has established a claim for \$1700.00. 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 \$1750.00. 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 \$1750.00.

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: August 12, 2013

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Residential Tenancy Branch

