



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

MNDC, FF

### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the tenant for an order for the return of double the security deposit retained by the landlord and a monetary order for the equivalent of one-month compensation for a Notice issued under section 49 of the Act to end the tenancy for landlord's use.

Although served with the Notice of Hearing and application by registered mail sent on December 3, 2013, the landlord did not appear.

### **Issue(s) to be Decided**

The issues to be determined based on the testimony and the evidence are:

- Is the tenant entitled to an order for payment of the equivalent of one month compensation pursuant to section 51(1) after being issued the Two-Month Notice for landlord use?
- Is the tenant entitled to payment for the equivalent of two months compensation pursuant to section 51(2) based on the landlord's failure to utilize the rental unit for the stated purpose?
- **Background and Evidence**

The tenant testified that the tenant had moved into the unit in 2009. The rent was \$650.00 per month.

The tenant testified that they vacated the unit on November 30, 2011 pursuant to a Two Month Notice to End Tenancy for Landlord's Use dated September 27, 2011. A copy of the Notice is in evidence and indicates that the landlord was terminating the tenancy because:

*“The landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property”*

The tenant testified that, although the landlord refunded her \$200.00 security deposit, the landlord failed to compensate the tenant by giving the tenant the equivalent of 1 month compensation required when a Two Month Notice to End Tenancy for Landlord's Use has been issued.

The tenant is seeking \$650.00 in compensation.

The tenant testified that she is aware that the landlord did not utilize the rental unit for the purpose stated on the Two Month Notice to End Tenancy for Landlord's Use. The tenant testified that, instead of converting the unit to a caretaker's suite, the landlord merely re-rented the unit to new tenants. The tenant pointed out that this was confirmed to be true, because she knows the renters who took occupancy right after the tenant vacated in November 2011.

The tenant is seeking an additional \$1,300.00 in compensation

### **Analysis**

In regard to the tenant's claim for \$650.00 compensation, I find that section 51(1) requires that a tenant receive the equivalent of one month compensation by the landlord if a Notice to End Tenancy for Landlord Use is issued. I find that the landlord did not comply with this and therefore, I find that the tenant is entitled to be paid \$650.00 by the landlord.

In regard to the tenant's claim for \$1,300.00 based on the allegation that the landlord failed to use the unit for the stated purpose on the 2-Month Notice, I find that the Act specifically provides that, when a Two-Month Notice to End Tenancy for Landlord's Use has been issued under section 49 and the landlord fails to utilize the rental unit for the purpose stated in the Notice, the tenant is entitled to receive additional compensation.

Section 51(2) states that, in addition to the one month compensation for the final month of the tenancy 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, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

(My emphasis)

In the case before me, I find that, in order to comply with the Notice issued, the landlord was required to convert the rental unit into a caretaker suite. I accept the tenant's undisputed testimony that this did not occur and that the landlord re-rented the unit to other tenants instead.

Accordingly, I find that the tenant is entitled to be compensated the equivalent of two months rent in the amount of \$1,300.00.

I hereby issue a monetary order to the tenant in the amount of \$2,000.00 comprised of \$650.00 compensation under section 51 of the Act, \$1,300.00 compensation under section 51(2) of the Act and the \$50.00 cost of this application.

This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### **Conclusion**

The tenant is successful in the application and is awarded a monetary order for the equivalent of 1 month rent pursuant to section 51(1) of the Act and two months rent under section 51(2) of the Act.

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 26, 2014

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Residential Tenancy Branch

