



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This is an application filed by the tenant for a monetary order for money owed or compensation for damage or loss and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The landlord has confirmed that he received the tenant's notice of hearing package and the submitted documentary evidence. The tenant states that she has not received the documentary evidence submitted by the landlord. The landlord has confirmed that no evidence was sent to the tenant as he thought the Residential Tenancy Branch would. As such, the landlord's documentary evidence is deemed not admissible and shall not be considered for this hearing. Both parties were notified that the landlord's evidence seemed similar to the tenants, but that the landlord may refer and clarify his evidence in his direct testimony.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order?

### Background and Evidence

This tenancy began on June 1, 2010 on a month to month basis as shown by the submitted copy of the signed tenancy agreement dated May 8, 2010. The monthly rent was \$1,200.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$600.00 was paid.

Both parties agreed that the landlord served the tenant with a 2 month notice to end tenancy issued for landlord's use dated March 1, 2014 effective on May 1, 2014. The listed reason was, "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother or child) of the landlord or the landlord's spouse." Both parties agreed that the tenant gave 10 days notice on March

19, 2014 and moved out early on April 1, 2014 as stated in submitted copy of a hand written notice dated march 19, 2014.

Both parties agreed that the landlord has not complied with the notice as stated by occupying the rental unit and instead has the rental property listed for sale. The tenant has submitted copies of written statements from witnesses that provide details that the rental property is still listed for sale and a copy of a MLS listing showing that the rental property is listed for sale. The tenant states that this was noted as early as April 22, 2014 and again on May 9, 2014. The landlord does not dispute this, but states that the tenant has been compensated by being given a months free rent as per the notice and was given \$1,200.00 when the tenant moved out. The tenant disputes this stating that no such compensation has been received.

### Analysis

I accept the evidence provided by both parties and find on a balance of probabilities that I prefer the evidence of the tenant over that of the landlord. The landlord was not able to provide any evidence that compensation was given to the tenant in the form of 1 months free rent and as well the \$1,200.00 paid to the tenant as this was disputed by the tenant.

The tenant has established a monetary claim of \$2,400.00 which is equal to an amount double the monthly rent of \$1,200.00. The tenant is also entitled to recovery of the \$50.00 filing fee. The tenant is granted a monetary order for \$2,450.00. 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 \$2,450.00.

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: September 03, 2014

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Residential Tenancy Branch

