



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order to compensate the tenant with double the rent pursuant to sections 49 and 51 as the landlord did not use the unit according to his stated purpose.

### **SERVICE**

Both parties attended the hearing and the tenant provided evidence that she had served the landlord with the Application for Dispute Resolution personally. The landlord agreed they had received it as stated. I find the documents were served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

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

Has the tenant proved on the balance of probabilities that the landlord did not use the unit for the stated purpose in the section 49 Notice within a reasonable time and he is entitled to double the monthly rent pursuant to section 51 of the Act?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to present evidence and make submissions. The tenant's agent said that she questioned the intent of the landlord for he had wanted to end her son's tenancy many times. Then when her son was ill and in hospital, the landlord wanted him to move and served him a Notice to End his tenancy right after he came home. She said she had painted and paid rent all during this time. The tenant received the last month rent free.

The landlord said that they wanted the suite for the mother-in-law to occupy. They said she could not move in immediately for she was looking after children for the sister of the landlord but she did move in a bit later in November 2014. They provided evidence showing the mother's name and this home as her new address but the tenant said that the home had mail for many persons delivered there and it did not mean that the mother

was living there. The landlord provided photographs showing the suite with some items in it. The tenant questioned the items and said there was no bed or dresser. The landlord said again that the mother was living there but had minimal possessions. The tenant, after hearing the evidence of the landlord, and it being pointed out that section 51 of the Act provides that the landlord has a reasonable time to accomplish his stated purpose, said she did not disagree with the finding.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

The *Residential Tenancy Act* provides:

**Tenant's compensation: section 49 notice**

**51** (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.*

(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.*

I find the Notice to End Tenancy was effective October 31, 2014 and the landlord said the mother had moved into the home later in November 2014. I find it reasonable that the mother could not move in immediately as she had an obligation to look after another daughter's children while that daughter was on vacation. I find the weight of the

evidence is that she moved in later in November 2014 and I find this is within a reasonable time after the tenancy ended.

Although the tenant alleged an ulterior motive for ending the tenancy and advocated vigorously for her son, I find insufficient evidence to support this allegation.

**Conclusion:**

I dismiss this application of the tenant in its entirety without leave to reapply.

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: February 10, 2015

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Residential Tenancy Branch

