



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

### Background and Evidence

The following are undisputed facts: The tenancy started prior to 1994 and ended on March 31, 2014. Rent of \$1,390.00 was payable monthly. The Tenants moved out of the unit pursuant to the Landlord’s issuance of two month notice to end tenancy for landlords use (the “Notice”). The oral and written reason for the issuance of the Notice was that the Landlord’s son would be moving into the unit. The Landlord returned the security deposit to the Tenants at the end of the tenancy.

The Tenant states that on or about June 24, 2014 the Tenant returned to the unit to enquire about old mail. The Tenant states that the building manager informed the Tenant that the unit was empty, that nobody had moved into the unit and that the sale of

the unit to a resident in the building had fell through. The Tenant states that 2 days later a listing of the totally renovated unit was found advertised. The Tenant states that a neighbour also told them the unit was empty and that the realtor had an open house on July 13, 2014. The Tenant claims two months equivalent of rent in compensation. The Tenant claims a further amount of compensation for the cost of the Tenants to drive their children to school from their next residence.

The Landlord states that the son did intend to move into the unit with his girlfriend after the unit was remodelled and that the son remodelled the unit while residing with the Landlord. The Landlord states that he gifted the unit to his son because his son was planning marriage. The Landlord states that when the son and the girlfriend ended their relationship at the end of April 2014 the son no longer wanted the unit. The Landlord states that the renovations were done at the beginning of May 2014 and that the unit was vacant until listed for sale as the Landlord took the unit back from his son. The Landlord provides witness letters in relation to the intentions of the Landlord and the break-up between the son and girlfriend. The Landlord states that he did not want to rent the unit again at this point given the value put into the renovations. The Landlord states that unit was listed on June 26, 2014.

### Analysis

Section 51 of the Act provides that if steps have not been taken to accomplish the stated purpose for ending a tenancy for landlord's use within a reasonable period after the effective date of the notice, or if 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.

The undisputed stated intention for the Notice was that the son would live in the unit. The intention was not for renovations or any other reason. While I do not doubt the evidence of a broken relationship, the Landlord's evidence of the unit being a gift to the son who did the renovations but then declined the gift due to the broken relationship

does not hold a ring of truth. Regardless of the breakup of the son's relationship, considering that the tenancy ended on March 31, 2014, that renovations took place until May 2014, that the unit was placed for sale in June 2014 and that the son never lived in the unit, I find that the Tenants have substantiated on a balance of probabilities that the unit was not used for the stated purpose for at least 6 months after the Tenant's moved out. I find therefore that the Tenants have substantiated its claim to **\$2,780.00**.

As the damages claimed for transporting the Tenant's children did not arise during the tenancy and as the Tenant has been compensated for having to move out of the unit, I dismiss the additional claim for compensation. As the Tenants' application had merit I find that the Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$2,830.00**.

#### Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$2,840.00**. If necessary, this order may be filed in the Small Claims 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: March 20, 2015

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Residential Tenancy Branch

