



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNDC, OLC

This hearing dealt with an application by the tenant seeking an order to have the landlord comply with the Act, regulation or tenancy agreement, a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and an order to recover the filing fee for this application. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on September 13, 2014, the landlords did not participate in the conference call hearing. I am satisfied that the landlords had been notified of this hearing in accordance with Section 89 of the Act. The tenant also provided a tracking number and slip that the landlord was provided all documentary evidence on September 25, 2014. The tenant gave affirmed evidence.

### Issue to be Decided

Is the tenant entitled to any of the above under the Act, regulation or tenancy agreement?

### Background, Evidence and Analysis

The tenants' undisputed testimony is as follows. The tenancy began on March 1, 2004 and ended on February 28, 2005. The tenant stated that at the end of the term the lease became a month to month agreement. The tenant advised that each year he would sign another one year term with the agreement that at the end of the term the tenancy would become month to month. The tenant stated that he did this for ten years as he enjoyed living in this home. The tenants were obligated to pay \$1775.00 per month in rent in advance. The tenant stated that on December 5, 2013 he received a letter from the owners stating that they had no intention to renew the lease and that the tenancy would end. The tenant stated that on December 6, 2013 he received a 2 Month Notice to End Tenancy for Landlords Use of Property with an effective date of February 28, 2014.

The tenant stated that the notice was given on the basis that "the rental unit will be occupied by the landlord or the landlords spouse or close family member". The tenant

stated that he drove by the house at least once per month to see if anyone moved in. The tenant stated that no one has moved in and that the neighbor next to the subject property confirmed that. The tenant stated that he and the next door neighbor are friends and that the neighbor has been watching the property for him. The tenant stated that he made numerous phone calls to the landlord which was not returned. The tenant stated that he would have gladly discussed this matter with the landlords and worked something out but feels they took advantage of him and treated him poorly after ten years of tenancy. The tenant stated that to this day, no one lives in the home and it sits empty. The tenant stated that he has walked onto the property and looked inside to find the home empty. The tenant stated that since the landlords issued the two month notice he should be entitled to two months compensation for issuing in bad faith pursuant to Section 51 of the Act.

### Analysis

The tenant provided undisputed testimony and submitted some documentation for this hearing. Section 51 of the Act addresses the issue before me as follows:

**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.

(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 the above and in the absence of any disputing evidence from the landlord the tenant has provided sufficient evidence that the landlord issued the notice in bad faith and is entitled to the equivalent to two months' rent as compensation. The tenant is entitled to  $\$1775.00 \times 2 = \$3550.00$ .

The tenant is also entitled to the recovery of the \$50.00 filing fee.

Although the tenant "checked off" several boxes in his application it all related to the matter as I have addressed above. This decision has addressed all aspects of the tenant's application.

#### Conclusion

The tenant has established a claim for \$3600.00. I grant the tenant an order under section 67 for the balance due of \$3600.00. 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: April 13, 2015

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Residential Tenancy Branch

