



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, MNDC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end the tenancy for landlord's use of property; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Tenant's Application for Dispute Resolution, evidence, and notice of this hearing by registered mail on September 26, 2015, no one for the landlord attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the tenant. The tenant testified that the landlord was served on that date and in that manner and has provided a copy of a cash register receipt from Canada Post bearing that date as well as a Registered Domestic Customer Receipt showing that the registered mail was addressed to the landlord, and contains a tracking number assigned by Canada Post. I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence of the tenant has been reviewed and is considered in this Decision.

During the course of the hearing the tenant advised that he moved out of the rental unit on October 31, 2015 and withdraws the application for an order cancelling the notice to end the tenancy given by the landlord.

### Issue(s) to be Decided

The issue remaining to be decided is:

- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

### Background and Evidence

The tenant testified that this month-to-month tenancy began on April 1, 2014 and ended on October 31, 2015. Rent in the amount of \$600.00 per month was payable on the 1<sup>st</sup> day of each month. The landlord did not collect a security deposit or a pet damage deposit from the tenant. The rental unit is a basement suite and the landlord resides in the upper level of the home.

The tenant further testified that the landlord personally handed to the tenant's wife a 2 Month Notice to End Tenancy for Landlord's Use of Property (hereafter referred to as the notice) on September 10, 2015. Copies of both pages of the 2-page notice have been provided and it is dated September 9, 2015 and contains an effective date of vacancy of October 30, 2015. Page 2 of the notice does not contain a reason for issuing it.

The tenant had a conversation with the landlord wherein the landlord asked the tenant to cancel the hearing, and the tenant replied that he would be moving out in accordance with the notice even though the effective date was less than 2 months from the date of issuance or service, and despite the fact that there was no reason mentioned in the notice for issuing it. The tenants moved out of the rental unit on October 31, 2015 without paying rent for October.

The tenant further testified that rent was originally \$600.00 per month, however the landlord told the tenant that rent was increasing by \$50.00 per month effective September 1, 2015 or the landlord would kick the tenant out. No Notice of Rent Increase was served on the tenant, however the tenant paid the increase because he had no other place to go for his family.

The tenant claims \$1,300.00 for moving expenses, which include paying friends for assisting and loss of wages for the tenant and the tenant's spouse. No receipts or proof of loss of wages has been provided.

### Analysis

Where a landlord serves a tenant with a 1 Month Notice to End Tenancy for Landlord's Use of Property, the landlord is also required to pay to the tenant the equivalent of one month's rent as compensation for breaking the tenancy agreement. In this case, the landlord gave less than 2 month's notice to end the tenancy, and the tenant is entitled to that compensation. Although the tenant didn't pay any rent for the month of October, 2015

and remained in the rental unit for the entire month, thereby receiving the compensation required by the *Act*, I find that the landlord caused the tenant to move out a full month before the legal effective date of vacancy causing the tenant to incur costs and inconvenience.

I have no evidence before me to support the tenant's claim for loss of income or paying friends for the move, and the *Act* does not provide for that, so I dismiss that portion of the application.

I accept the undisputed testimony of the tenant that the landlord increased rent by \$50.00 per month without lawful right by failing to serve a Notice of Rent Increase at least 3 months in advance of the effective date of the increase, and by increasing the rent by an amount that is in excess of the permitted amount. Therefore, I find that the tenant has established a claim for \$50.00.

Since the tenant has been partially successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee.

### Conclusion

For the reasons set out above, the tenant's application for an order cancelling a notice to end the tenancy for landlord's use of property is hereby dismissed as withdrawn.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$700.00.

This order is final and binding and may be enforced.

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: November 26, 2015

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Residential Tenancy Branch

