



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, FF

### Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The respondent, who is the purchaser of the rental property did not attend the hearing although she was served with the application and Notice of Hearing by registered mail sent on September 5., 2015. I note that the respondent's acknowledgement of receipt of the registered mail was submitted as evidence and that the respondent submitted some documentary evidence in response to the tenant's claim, but did not attend the hearing.

### Issue(s) to be Decided

Is the tenant entitled to compensation equivalent to two months' rent pursuant to section 51 of the *Residential Tenancy Act*?

Is the tenant entitled to any additional compensation and if so, in what amount?

### Background and Evidence

The rental unit is a basement suite in a house in West Vancouver. The tenancy began on February 10, 2013. The monthly rent was \$1,000.00, payable on the 10<sup>th</sup> of each month and the tenant did not pay a security deposit.

In April, 2015 the tenant was advised that the rental property would be offered for sale. The property was sold. The tenant was first told that the purchaser intended to keep her as tenant. Later she was told that the new owner wanted vacant possession of the rental property.

The tenant was served with a two month Notice to End Tenancy for landlord's use dated April 27, 2015. The Notice required the tenant to move out of the rental unit by July 10, 2015. The stated reason for the Notice to End Tenancy was that all of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give the Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The tenant moved out of the rental unit before the end of June, 2015.

After the tenant moved out she discovered that the rental property was not occupied by the owner or a family member. She discovered that it was offered for rent. The tenant provided documentary evidence that the rental property was advertised for rent in August, 2015. The entire rental property, including the rental unit was offered for rent at a monthly rent of \$4,500.00. The purchasers have not moved into the rental unit or into the rental property.

The tenant applied for compensation equivalent to two months' rent pursuant to section 51 of the *Residential Tenancy Act*. She also requested payment of moving costs and cleaning expenses as well as an amount for disturbance and inconvenience

### Analysis

Section 51(1) of the Act requires that a landlord who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (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.

The applicant seeks payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the purchaser did not occupy the rental property, although she caused the landlord to give

the Notice to End Tenancy to the tenant ; instead she advertised it for rent to new tenants. The tenant's evidence shows that the purchaser lives elsewhere and the rental property has not been occupied by the owner or a close family member.

Upon the evidence before me it is my finding that the applicant is entitled to the compensation provided by section 51(2). The Act provides that compensation is payable, regardless of intention if the rental unit is not used for the stated purpose for at least 6 months, beginning within a reasonable period after the effective date of the Notice. The rental unit has not been occupied by the landlord or a close family member and I find that the purchaser must pay to the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement, namely: the sum of \$2,000.00. The tenant claimed additional amounts for moving and other expenses. I deny these claims because the compensation provided by section 51 of the *Residential Tenancy Act* is a penalty mandated by statute for a breach of the relevant provisions of the Act and it is not open to me to enlarge the scope of the penalty. The claims for compensation in excess of double the monthly rent are denied. The tenant is entitled to recover the \$50.00 filing fee paid for her application for a total claim of \$2,050.00 and I grant the tenant an order under section 67 in the said amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### Conclusion

The tenant's claim has been allowed in the amount of \$2,050.00. The tenant's claim for additional compensation is dismissed 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: March 11, 2016

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Residential Tenancy Branch

