



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR FF

### **Introduction**

Only the tenant/applicant attended the hearing and provided evidence that he had served the landlord with the Application for Dispute Resolution and his forwarding address by registered mail. The registered mail receipts were provided in evidence. I find the documents were served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order to return double the monthly rent;
- b) For a refund of rent pursuant to section 50; and
- c) To recover the filing fee for this application.

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

Has the tenant proved on the balance of probabilities that they are entitled to a refund of 22 days of rent pursuant to section 50 of the Act and to the return of double the monthly rent?

### **Background and Evidence**

Only the tenant attended the hearing and was given opportunity to be heard, to present evidence and make submissions. The tenant said he had paid a security deposit and a pet damage deposit each in the amount of \$900 in January 2014. Rent was \$1800 a month. On December 27, 2015, he received a two month Notice to End Tenancy for the landlord had sold the property and the purchaser wanted occupancy for them or close family members. The tenant did not pay rent for February 2016 and vacated the unit on February 7, 2016 after giving Notice to End his tenancy by registered mail on January 28, 2016. In accordance with section 50 of the Act, he requests a refund of rent from February 8 to 29 of the Act in the amount of \$1365.52.

He further requested double the monthly rent based on box 2 of the second page of the Notice to End Tenancy. In discussion, it seems he had misunderstood the section that states "If the landlord does not take steps towards the purpose". He agreed he had no evidence that the landlord or purchaser had not taken possession for the purpose they stated.

He said the landlord had returned his deposits on February 15, 2016 which is within the legislated time in section 38 so they are not in issue.

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:

Sections 50 and 51:

*Tenant may end tenancy early following notice under certain sections*

*50 (1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [landlord's use of property] or 49.1 [landlord's notice: tenant ceases to qualify], the tenant may end the tenancy early by*

*(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and*

*(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.*

*(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.*

*(3) A notice under this section does not affect the tenant's right to compensation under section 51 [tenant's compensation: section 49 notice].*

*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.*

I find the tenancy ended pursuant to a section 49 Notice to End Tenancy. I find the tenant was entitled to one month's rent in compensation pursuant to section 51 above. I find the tenant chose to end his tenancy with 10 days Notice to End and he vacated on February 7, 2016. I find he is entitled to the balance of the free month's rent (February) which is 22 days for a total of \$1365.52.

I dismiss the other claim of the tenant as it was not based on legislation but was a mistaken interpretation of the section 49 Form. I find he also received the refund of his deposits in time pursuant to section 38 of the Act.

**Conclusion:**

I find the tenant entitled to a monetary order as calculated below and to recover the filing fee for this application.

**Calculation of Monetary Award:**

Refund 22 days rent Feb. 2016	1365.52
Filing fee	100.00
Total Monetary Order to Tenant	1465.52

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: July 07, 2016

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Residential Tenancy Branch