



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

**MT, MNDC**

### Introduction

This hearing was scheduled in response to the tenants' Application for Dispute Resolution, in which the tenant has requested compensation for damage or loss under the Act and for more time to dispute a Notice ending tenancy.

The tenant provided affirmed testimony that on August 25, 2016 copies of the Application for Dispute Resolution and Notice of Hearing and evidence were sent to the landlords' in a single package, via registered mail. A Canada Post tracking number was supplied during the hearing.

During the hearing the tracking number was checked on the Canada Post web site and it was determined that the mail had been accepted by landlord A. B. on September 12, 2016. (see cover for tracking number)

I find that these documents are deemed to have been served to landlord A.B. effective September 12, 2016 in accordance with section 89 and 90 and 90 of the *Act*.

The landlord did not appear at the hearing.

### Preliminary Matters

As there is no evidence before me landlord B.B. was served the hearing documents, I find that the application is amended to remove B.B. as a respondent.

The tenant vacated the rental unit and does not require more time to dispute a Notice ending tenancy.

### Issue(s) to be Decided

Is the tenant entitled to compensation pursuant to section 51 of the Act in the sum of \$1,200.00?

Is the tenant entitled to compensation for moving costs in the sum of \$300.00?

### Background and Evidence

The tenant vacated the rental unit in mid-June 2016 after having rented the unit for approximately five years. Rent was due on the first day of each month.

The tenant submitted a copy of a two month Notice to end tenancy for landlords' use of the property. The Notice was issued on March 24, 2016 and had an effective date of June 1, 2016. Landlord A.B. issued the Notice. The Notice indicated that the landlord, the landlords' spouse or a close family member of the landlord would occupy the rental unit.

The tenant did not dispute the Notice and vacated.

The tenant said that the landlord asked if they could hold an open house to show the unit while the tenant was still living in the unit. The tenant refused. A friend of the tenants' saw ads on a popular web site, advertising the unit for \$1,100.00 per month. The tenant supplied copies of the listing number but could no longer access the details of those ads.

The tenant knows the person who moved into the unit in July 2016. The person is not a close family member of the landlord or the landlords' spouse.

The tenant has claimed compensation payable in accordance with section 51 of the Act plus the cost of hiring movers and purchasing boxes.

The landlord did not attend the hearing to oppose the claim.

### Analysis

Based on the evidence before me and the absence of the landlord who was served with Notice of this hearing, I find that the tenant is entitled to compensation as claimed. The landlord did not attend the hearing to oppose the claim.

Section 51(1) of the Act provides:

***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.***

**(Emphasis added)**

51(2) of the Act provides:

*(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.*

I find that the landlord failed to use the rental unit for the reason given on the Notice; rather than the landlord, the landlord's spouse or a close family member occupying the unit the landlord re-rented the unit.

Therefore, as the landlord did not use the rental unit for the stated purpose, by occupying the unit for at least six months I find pursuant to section 51(2)(b) of the Act that the tenant is entitled to compensation in the sum equivalent to double the monthly rent; \$1,200.00.

As the tenant vacated the rental unit based on a Notice issued contrary to the Act I find that the tenant is entitled to moving costs as claimed. Those costs would not have been payable if the landlord had used the rental unit for the purpose given on the Notice.

Based on these determinations I grant the tenant a monetary order in the sum of \$1,500.00. In the event that the landlord does not comply with this order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an order of that Court.

### Conclusion

The tenant is entitled to compensation as claimed.

This decision is final and binding and 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: February 22, 2017

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Residential Tenancy Branch