



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not participate in the conference call hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that on October 22, 2016 she forwarded the tenant's application for dispute resolution via registered mail to the landlord. Based on the testimony of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord has been deemed served with the application on October 27, 2016, the fifth day after its registered mailing.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Is the tenant authorized to recover the filing fee for this application from the landlord?

### Background and Evidence

As per the submitted tenancy agreement and testimony of the tenant, the tenancy began on September 15, 2011, on a fixed term until September 15, 2012 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$1,850.00 was payable on the first of each month. The tenant remitted a security deposit in the

amount of \$925.00 at the start of the tenancy which was later returned to her at the end of the tenancy.

On July 30, 2016, the landlord issued a 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"). The grounds to end the tenancy cited in that 2 Month Notice were;

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)
- The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit

The tenant testified that she complied with the 2 Month Notice and vacated the rental unit on October 1, 2016. The tenant testified that on October 20, 2016 she came across an internet advertisement of the rental unit. The advertisement indicated the landlord was seeking a candidate for a long term rental with a monthly rent of \$2,250.00. It is the tenant's position that the landlord did not issue the 2 Month Notice in good faith, and therefore seeks compensation equivalent to double the monthly rent. In an effort to support her position the tenant has provided a copy of the internet advertisement and copy of the 2 Month Notice.

### Analysis

Under section 49 of the *Act*, a landlord may end a tenancy if the rental unit will be occupied by the landlord or the landlord's close family member or the landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

Section 51(2)(b) of the *Act* establishes that if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 of the *Act* within a reasonable period after the effective date of the notice or the rental unit is not used for the stated purpose for at least six months beginning within a reasonable period after the effective date of the notice the landlord must pay the tenants double the monthly rent.

In this case, the tenant has provided undisputed evidence that the landlord advertised the unit on October 20, 2016 for a long term rental at an increased rental rate. This evidence satisfies me, that the landlord did not issue the 2 Month Notice in good faith and failed to occupy the unit within a reasonable amount of time after the effective date

of the notice. Therefore I find the tenant is entitled to compensation in the amount of \$3,700.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for the application for a total award of \$3,800.00

### Conclusion

I issue a monetary order in the tenants favour in the amount of **\$3,800.00** against the landlord.

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 07, 2017

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Residential Tenancy Branch