



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, OPL

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution filed March 24, 2017 wherein the Tenants sought an Order canceling a 2 Month Notice to End Tenancy for Landlord's Use issued on March 11, 2017.

On March 29, 2017 the Tenants filed a further Application indicating they sought the sum of \$3,600.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

On March 30, 2017 the Tenants filed a further Application indicating they sought the sum of \$4,800.00.

On April 19, 2017 the Tenants filed an Amendment to an Application for Dispute Resolution wherein they indicated their monetary claim had changed to \$6,000.00.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

### Preliminary Matter—Tenants' Claims

Hearings before the Residential Tenancy Branch are obtained on a priority basis and the Tenants' Application was set for an early hearing date as they sought to cancel a Notice to End Tenancy.

*Residential Tenancy Branch Rule of Procedure 2.3* provides that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the Notice and the continuation of this tenancy is not sufficiently related to the Tenants' monetary claims.

In the within action, the Tenants also sought monetary compensation pursuant to section 51(2) of the *Residential Tenancy Act*, which reads as follows:

**Tenant's compensation: section 49 notice**

- 51** ... (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.

Section 51(2) refers to a "reasonable period *after* the effective date of the notice"; as the effective date of the notice has yet to pass, their application for compensation pursuant to section 51(2) is premature.

The Tenants' other monetary claims are unrelated to the question of the validity of the Notice. I therefore exercise my discretion to dismiss the balance of the Tenants' claims.

Settlement

The Tenants confirmed they intended to move from the rental unit on May 31, 2017 (the effective date of the 2 Month Notice to End Tenancy) and were agreeable to the Landlord obtaining an Order of Possession effective that date. They further confirmed they received their free months' rent pursuant to section 49 and 51(1) of the *Residential Tenancy Act*.

Pursuant to section 63 of the Act, I record this agreement in this my decision and resulting Orders. The terms of the settlement are as follows:

1. The Tenants will vacate the rental unit by no later than 1:00 p.m. on May 31, 2017.

2. The Landlord is entitled to an Order of Possession effective 1:00 p.m. on May 31, 2017. This order may be filed in the Supreme Court and enforced as an order of that Court.
3. The balance of the relief sought in the Tenants' Amended Application for Dispute Resolution is dismissed with leave to reapply.

### Conclusion

The Tenants agreed to vacate the rental unit on the effective date of the Notice to End Tenancy. The Landlord is granted an Order of Possession pursuant to sections 55 and 63 of the *Act*.

The balance of the Tenants claims are dismissed with leave to reapply.

The parties were cautioned to consider section 38 in relation to the Tenants' security deposit.

This decision is final and binding on the parties, except as otherwise provided under the Act, 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: May 04, 2017

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Residential Tenancy Branch