



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for loss or compensation under the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions. The advocate for the landlord stated that they seek the tenant's application to be dismissed. The advocate stated the parties were at a previous hearing in which the tenant withdrew their application, which cost the landlords loss of wages.

The advocate stated that they are unsure of the tenant's claim in this hearing and it would be unfair and prejudicial to the landlords for the tenant's application to proceed as they did not have a fair opportunity to respond and it would cause the landlord's financial loss to have to appear at a third hearing.

The tenant stated they filed their application on January 4, 2017, and filed their evidence in support of their claim on May 31, 2017, which was within the statutory time limit.

In this case, I have reviewed the tenant's application filed on January 4, 2017; the tenant's application seeks monetary compensation in the amount of \$6,143.95. The tenant did not provide a monetary worksheet or a detail calculation as to how they arrived at the amount claimed.

Further, the details of dispute do not provide sufficient evidence of the claim, with one exception. For compensation for receiving a notice to end tenancy pursuant to section 49 of the Act. .

On June 1, 2017, the tenant filed their monetary worksheet which the amount claimed is larger than the original claim. The tenant did not amend their claim. The tenant at that time provided the full details of their application.

However, the monetary worksheet and the detail of their claim were required to be filed when they made their application, not six months later. I find the tenant's actions did not comply Rule 2.5 of the Residential Tenancy Branch Rules of Procedures. And was purposely filed so the landlord would not have a fair opportunity to respond.

Therefore, I find the only issue for me to determine is whether the tenant is entitled to receive compensation under section 51 of the Act.

Further, I find it would be unfair and prejudicial to the landlords to permit the tenant to refile a second application for the balance of the reasons as this is an abuse of the dispute resolution process and Rule 2.9 stated a claim cannot be divided. The balance of the tenant's application is dismissed without leave to reapply pursuant to section 59, and 62 of the Act.

#### Issue to be Decided

Is the tenant entitled to a monetary order for compensation under the Act?

#### Background and Evidence

The tenancy began on July 1, 2014. Rent in the amount of \$870.00 was payable on the first of each month. A security deposit of \$435.00 was paid by the tenant. The tenancy ended December 4, 2016.

The tenant testified that they received a Two Month Notice to End Tenancy for Landlord's Use of Property, with an effective vacancy date of December 31, 2016.

The tenant testified that they gave the landlords ten days' notice to end the tenancy earlier on November 4, 2016, with an effective vacancy date of December 3, 2016; however they did not receive the required compensation that is equal to one month of rent.

The advocate for the landlord stated that at the previous hearing the tenant withdrew her application. The advocate stated that they do not believe the tenant is entitled to compensation, and if so, rent should be prorated.

### Analyse

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the tenant withdrew their application to dispute the notice to end tenancy at a previous hearing, the tenant accepted the notice and moved out. I find the tenant's actions did not waive their rights to compensation and the tenant is entitled to compensation equal to one month rent of \$870.00; however, as the tenant gave the landlords 10 days' notice to end the tenancy earlier on November 24, 2016, I find the earliest the tenancy could have ended the tenancy was December 4, 2016. Since the tenant did not pay any rent for December 2016, I find the landlord is entitled to prorated rent for those four days in the amount of \$112.24.

Therefore, the landlord's prorated rent of \$112.24 will be deducted from the tenant's compensation of \$870.00. I find the tenant is entitled to a monetary of \$757.76. The landlord's advocate indicated that they would send the tenant a cheque within 10 business day.

### Conclusion

The tenant is granted a monetary order for compensation for receiving the Notice. The balance of the tenant's claim is dismissed without leave to reapply. The only further application that the tenant is permitted to file is if the landlord does not use the premises for the reasons stated.

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: June 26, 2017

---

Residential Tenancy Branch