



# 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, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

### Issues

Are the tenants entitled a monetary order for compensation for damage or loss?  
Are the tenants entitled to recover the filing fee for this application from the landlord?

### Background & Evidence

The tenancy originally began on October 1, 2014 and on October 23, 2015 the parties entered into a new 1 year fixed term agreement. The lease agreement itself specified that the tenancy ends at the expiry of the lease and the tenants are required to vacate at the end of the term on September 30, 2016. However, the parties also signed an addendum on the same date which states the landlord and tenant have mutually agreed that at the expiration of the original lease, the tenancy will continue on a month-to-month basis unless a set term has been agreed upon. The monthly rent was \$2365.00.

On July 26, 2016, the landlord served the tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property with an effective date of September 30, 2016. The reason for issuing the 2 Month Notice was indicated as the landlord has all the

necessary permits and approvals required by law to demolish the rental unit, or renovate the rental unit in a manner that requires the rental unit to be vacant.

The tenants vacated the rental unit on September 30, 2016.

The tenants are claiming an amount equivalent to double the monthly rent as compensation for the landlord not using the rental property for the reason indicated as per the 2 Month Notice. The tenants submit the house was put up for sale 15 days after they vacated and the only renovation done by the landlord was a new roof. The tenants submit they only signed the lease agreement on the basis of their understanding that the lease addendum nullified the fixed term vacate clause in the agreement.

The landlord submits the lease agreement was for a fixed term which required the tenants to vacate at the expiry of the 1 year term. The landlord submits the 2 Month Notice was only issued in good faith but was not required. The landlord submits the tenancy was ended correctly as the landlord notified the tenants in writing that the fixed term lease was not being renewed.

### Analysis

Section 51 (2) of the Act provides that if 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 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.

The landlord did not dispute whether or not steps were taken to accomplish the stated purpose for ending the tenancy as per the 2 Month Notice. Rather the landlord argued the tenancy was for a fixed term which ended at the expiry of the lease. I find the lease addendum signed by the parties clearly stipulates that after the expiration of the original lease, the tenancy will continue on a month-to-month basis unless a set term has been agreed upon. I find the landlord ended the lease by the issuance of the 2 Month Notice. The landlord provided insufficient evidence that it has taken steps to accomplish the stated purpose for ending the tenancy as per the 2 Month Notice.

I allow the tenants claim for an amount equivalent to double the monthly rent and award an amount of \$4730.00, which is double the monthly rent of \$2365.00.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$4830.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenants a Monetary Order in the amount of \$4830.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: August 28, 2017

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Residential Tenancy Branch