



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDC, OLC, FF

### **Introduction**

This hearing was convened in response to an original application filed by the tenant on June 08, 2017, however since amended, and the resulting relevant application which seeks a Monetary Order under the *Residential Tenancy Act* (the Act) as follows:

- A Monetary Order for compensation for loss under the Act, regulation or tenancy agreement – Section 67
- For the landlord to comply with the Act, in respect to - Section 51
- Recover the filing fee from the landlord for this application - Section 72

Both parties participated in the hearing and provided testimony. The landlord testified they received the tenant's application, amendment and evidence. The tenant testified receiving the evidence of the landlord and acknowledged they did not send to the landlord their evidence comprised of e-mail exchanges and a summary narrative, both of which were provided to this proceeding. The parties were advised I could not consider evidence which was not provided in accordance with the Rules of Procedure and that I would not turn my mind to those identified documents. The tenant testified they were not relying on the documents. The hearing proceeded on merits of the tenant's relevant claims.

Both parties were provided opportunity to settle their dispute to no avail. They were also provided opportunity to present all relevant evidence and testimony in respect to the application and fully participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties were informed that only *relevant evidence* would be considered toward a final and binding Decision.

### **Issue(s) to be Decided**

Is the tenant entitled to the monetary amounts claimed?

### **Background and Evidence**

The relevant evidence in this matter is as follows. This tenancy started in 2013 and ended June 30, 2017. The parties provided a copy of the tenancy agreement indicating rent of \$1300.00 per month was payable on the first of each month and that the rent did not include utilities. The tenant's deposits of the tenancy have been returned.

The parties agreed that on May 26, 2017 the tenant received from the landlord an invalid 1 Month Notice to End for Cause which the tenant originally disputed, which however is now moot. The parties also agreed that on May 31, 2017 the tenant was served by the landlord with a 2 Month Notice to End Tenancy for Landlord's Use of Property with a stated effective date of July 31, 2017. The tenant testified they determined to act on the landlord's 2 Month Notice and sought alternate accommodations. They provided into evidence that on June 14, 2017 they provided the landlord with written 10 day notice to end the tenancy pursuant to Section 50(1) effective June 30, 2017 and the tenancy ended in accordance with the tenant's notice. The parties agreed the tenant was not compensated as prescribed by the Act pursuant to them receiving the landlord's 2 Month Notice to End.

The tenant seeks an abundance of discretionary costs associated with their choices toward vacating the unit, as well as litigation costs, end of tenancy expenses per the agreement and the Act, and moving related costs. As well the tenant seeks for the landlord to be punished by way of a penalty equal to 3 month's rent for issuing an invalid notice of rent increase and an invalid 1 Month Notice to End. The landlord submitted a monetary worksheet in support of seeking taxi costs, mail related costs, carpet cleaning costs, unit cleaning costs, utility costs, moving costs and penalties.

The landlord effectively argued they have not done anything to attract compensation to the tenant, nor that their conduct was in bad faith, inappropriate or contrary to law.

### **Analysis**

*The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).*

The burden of proving claims of loss rests on the claimant. On preponderance of the relevant evidence and on the balance of probabilities, I find as follows.

I find that the landlord gave the tenant a 2 Month Notice to End and that the Notice complies with Section 52 of the Act and is valid. The tenant chose not to dispute the Notice and acted on that Notice by vacating earlier than the effective date of the Notice, as they were permitted to do. I find the tenancy ended pursuant to the landlord's 2

Month Notice on June 30, 2017. By which date the tenant was entitled to receive the equivalent of one month's payable rent under the tenancy agreement as per Section 51(1) of the Act. This did not occur and as a result I grant the tenant the requisite compensation in the amount of **\$1300.00**.

Regarding the tenant's claim for punitive damages totalling \$3900.00 I find I do not have the authority to award punitive damages in order to punish the landlord; as a result this portion of the tenant's claims is dismissed.

Regarding the balance of the tenant's claims I find that the landlord is not responsible for the tenant's discretionary costs, their costs for utilities, end of tenancy related costs, mail related costs, or costs associated with advancing their application for dispute resolution (litigation costs) except for the filing fee as provided by Section 72(1) of the Act. Therefore, except for the filing fee, the balance of the tenant's monetary claims are dismissed. As the tenant has in part been successful in their application they are entitled to recover the filing fee of \$100.00 for a sum award of **\$1400.00**.

### **Conclusion**

The tenant's application in relevant part is granted, and the balance dismissed.

**I grant** the tenant a monetary Order under Section 67 of the Act for the amount of **\$1400.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision and Order is final and binding.**

*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 03, 2017

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Residential Tenancy Branch