



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNDC

### Introduction

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

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- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of two months' rent as claimed?

Is the tenant entitled to a monetary order for moving expenses?

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

### Background and Evidence

This month to month tenancy began on December 1, 2003. The monthly rent was \$1026.00.

The tenant gave the following testimony. On August 23, 2016 the previous landlord and owner served the tenant with a two month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenants to move out of the rental unit by November 1, 2016. The ground for the Notice was that "*All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit*". The tenant moved out of the rental unit but later discovered that the landlord did not move into the rental unit; instead found a listing that the unit was for rent in late November 2016. The tenant testified that the landlords should pay her the two month rent "penalty" and her \$1150.00 moving costs and the \$100.00 filing fee for this application.

The landlord gave the following testimony. The landlords bought and took possession of the unit on November 1, 2016. The landlords testified that they have lived in the same building for over twenty years and in the same unit during that time. The landlords testified that they at no time intended to move into the unit and they did not request that the previous owner issue a notice to end tenancy in writing or otherwise. The landlords' testified that they were unaware that the previous owner had issued a notice to end the tenancy. The landlords testified that they were "shocked" when they received notice of this hearing. The landlords testified that they dispute the authenticity of the moving bill supplied by the tenant and don't feel that they should pay for that claim either.

### Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (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.

The applicant seeks payment of compensation in the amount of double the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the property was not used for the stated purpose for ending the tenancy. The landlords adamantly denied that they had ever requested that the previous owner issue a notice to end the tenancy on their behalf. The landlords' submitted a copy of the "Contract of Purchase and Sale" and it supports their position that they did not ask that a notice to end be given to the tenant. The document makes no mention of tenancies as part of the contract or that a notice to end tenancy is given under Section 49 of the Residential Tenancy Act.

The tenant testified that she had a hearing in August and that the Arbitrator had told her that she had served the wrong party and that she had to reapply, when in fact the Arbitrator's decision was that tenant had not properly served the previous owner and landlord who was the person that issued the notice. It's not clear to me why the tenant chose to serve the purchasers of the unit instead. When I asked the tenant she was unclear and gave a disjointed and vague answer. However, the landlords have provided documentation to support their position that they did not ask the previous owner to issue a notice to end tenancy in writing and therefore, the tenant has not provided sufficient evidence to support her claim. Based on the landlords disputing documentation, the tenant is not entitled to the two months' rent as compensation.

As I have found that the landlords are not responsible for the end of the tenancy, they are also not liable for the moving costs, accordingly; I dismiss this portion of the tenant's application.

The tenant has not been successful in her application.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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: March 08, 2018

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Residential Tenancy Branch