



# 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 tenants' 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; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, present documentary evidence and to call witnesses.

As both parties were in attendance I confirmed that there were no issues with service of the tenants' application for dispute resolution and the parties' respective evidentiary materials. The landlord confirmed receipt of the tenants' materials. The tenant confirmed receipt of the landlord's evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with copies of the tenants' application and evidence and the tenants were duly served with the landlord's evidence.

### Issue(s) to be Decided

Are the tenants entitled to a monetary award as claimed?

Are the tenants entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

The parties provided undisputed testimony regarding the following facts. This tenancy originally began in May, 2015 and ended August 31, 2017. At the end of the tenancy the monthly rent was \$1,100.00.

The landlord issued a 2 Month Notice to End Tenancy for Landlord's Use (the "2 Month Notice") on July 1, 2017. The 2 Month Notice provides the reason for the tenancy ending as "the rental unit will be occupied by the landlord or the landlord's close family member". A copy of the 2 Month Notice was submitted into evidence. The landlord testified that when the 2 Month Notice was issued the intention was that the landlord's son would occupy the rental unit.

The tenants moved out of the rental unit on August 31, 2017 in accordance with the 2 Month Notice. The tenants gave evidence that a new tenant moved into the rental unit when they were vacating. The landlord testified that his son found employment outside of the municipality and therefore he could no longer occupy the rental unit as originally planned. The landlord said that he found a new tenant to occupy the unit in his son's place.

### Analysis

Section 51(2) of the *Act* states 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.

In the present case the landlord issued a 2 Month Notice indicating that the rental unit would be occupied by the landlord or a close family member. The landlord testified that while that was the original intent, circumstances changed and he found a new tenant to occupy the rental unit instead.

The *Act* is clear in that a tenant is entitled to a monetary award if steps have not been taken to accomplish the stated purpose or the rental unit is not used for that stated purpose. The intention of the landlord when issuing the 2 Month Notice is not material to whether the tenant is entitled to compensation. In the case at hand the undisputed evidence provided is that the property was never occupied by the landlord or a close family member when the tenancy ended. Therefore, the tenants are entitled to a monetary award of \$2,200.00, double the amount of the monthly rent.

As the tenants were successful in their application they may also recover the \$100.00 filing fee.

### Conclusion

I issue a monetary order in the tenants' favour in the amount of \$2,300.00 against the landlord. The landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, the 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: April 18, 2018

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Residential Tenancy Branch