



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held on November 9, 2018. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67; and,
- recovery of the filing fee.

The Tenants attended the hearing. The Landlord did not attend the hearing. The Tenants testified that they sent a copy of the Notice of Hearing along with supporting documentary evidence to the Landlord by registered mail on June 12, 2018. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the Landlord is deemed to have received this package on June 17, 2018.

The Tenant was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

1. Are the Tenants entitled to compensation for loss or money owed?
2. Are the Tenants entitled to recover the cost of the filing fee?

### Background and Evidence

The Tenants stated that monthly rent was \$1,500.00. The Tenants stated that they received a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the Notice) on March 31, 2018.

The Tenants stated that after receiving the Notice, they paid for April 2018 rent. Then, they found another place to live, and gave their 10 Day Notice to terminate the tenancy early on April 20, 2018. The Tenants posted this notice to the Landlord's door and the Tenants provided a text message from the Landlord indicating he received their 10 Day Notice on April 20, 2018. The Tenants moved out of the rental unit on April 30, 2018, and are asking for April 2018 rent paid to them in compensation because they never received their free month rent after getting the 2-Month Notice to End Tenancy, pursuant to section 51 of the Act.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

First, I turn to the Tenants' request to obtain one months' compensation based on the Notice, pursuant to section 51 of the Act. The Tenants pointed out that they received the 2 Month Notice on March 31, 2018, with an effective date of May 30, 2018.

First, I turn to the following portion of the Act:

#### ***Tenant's compensation: section 49 notice***

**51** (1) *A tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.*

In this case, I find the Landlord is obligated to compensate the Tenants, pursuant to section 51 of the Act, in the amount of \$1,500.00, which is equivalent to one months' rent. This amount is compensable upon the Tenants' receipt of the Notice.

I note that the Tenants provided 10 days' notice that they were going to vacate early, following receipt of the 2 Month Notice. Ultimately, the Tenants left the unit on April 30, 2018, after providing their 10 Day Notice that they would terminate the tenancy early. I find the Tenants gave proper Notice that they would terminate the tenancy early, and I find they legally ended the tenancy on April 30, 2018. I find the evidence sufficiently establishes that the Landlord was in receipt of the 10 Day Notice from the Tenant on April 20, 2018.

I note the 2-Month Notice states that the Tenants may end the tenancy sooner than the date set out in this Notice as long as they give the landlord at least 10 days' written notice and pay the proportion of rent due to the effective date of that notice. Ending the tenancy early does not affect the Tenant's right to the one month compensation above.

Since they paid for April 2018 rent, and never got compensated pursuant to section 51 of the Act, I find the Tenants are entitled to a monetary order in the amount of \$1,500.00, which represents their free month as a result of getting the 2-Month Notice from the Landlord.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants were successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenants paid to make the application for dispute resolution.

In summary, I find the Tenants are entitled to a monetary order as follows:

- \$1,500.00 for one months' compensation due under section 51 of the Act
- \$100.00 for the cost of the filing fee
- Total: \$1,600.00

### Conclusion

The Tenants are granted a monetary order pursuant to Section 67 in the amount of **\$1,600.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenants may file the order in the Provincial Court (Small Claims) and be 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: November 13, 2018

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Residential Tenancy Branch