



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT FFT

### 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.

The landlord did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing to allow the party to call in. The tenant appeared and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that they served the landlord with the application for dispute resolution dated June 13, 2018 and evidence by registered mail sent on that date. The tenant provided a Canada Post tracking number as evidence of service. Based on the undisputed evidence I find that the landlord was deemed served with the tenant's application package on June 18, 2018, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

### 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 their application?

### Background and Evidence

The tenants gave undisputed evidence regarding the following facts. This tenancy began approximately 7 years ago. The property was purchased by the landlord in July, 2017 and they assumed the tenancy. The monthly rent was \$1,500.00 payable on the first of each month.

The landlord issued a 2 Month Notice to End Tenancy for Landlord's Use dated July 28, 2017 (the "2 Month Notice"). The 2 Month Notice provides that the reason for the tenancy to end is that the landlord or close family member of the landlord intends to occupy the rental unit. The tenants vacated the rental unit by September 30, 2017 in accordance with the 2 Month Notice.

Shortly after the tenancy ended the tenants discovered that the landlord had listed the rental unit for rent. Neither the landlord nor any family member occupied the rental unit at any time. The tenants submitted into written evidence sworn affidavits from the neighbors surrounding the rental building who all uniformly attest that the rental unit was listed, signs showing it was available were put up and the new occupants were not the landlord or a family member.

### 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.

I accept the undisputed evidence that the tenant was issued a 2 Month Notice which stated that the landlord or a close family member intends to occupy the rental unit. I accept the evidence that the landlord did not occupy the rental suite and instead listed it for rent commercially. Therefore, as I find that the landlord did not accomplish the stated purpose for ending the tenancy the tenants are entitled to an award in the amount of \$3,000.00, double the monthly rent payable under the tenancy agreement.

As the tenants' application was successful the tenants may also recover the filing fee for their application.

### Conclusion

I issue a monetary order in the tenants' favour in the amount of \$3,100.00 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: November 9, 2018

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Residential Tenancy Branch