



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RE/MAX PROFESSIONAL RENTAL MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT, FFT

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for monetary compensation and for the recovery of the filing fee paid for this application.

The Tenant was present for the teleconference hearing as were two agents for the Landlord (the “Landlord”). The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. The Tenant confirmed receipt of a copy of the Landlord’s evidence package. As such, I find that both parties were duly served in accordance with Sections 88 and 89 of the *Act*.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issues to be Decided

Is the Tenant entitled to monetary compensation?

Should the Tenant be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The parties were in agreement as to the details of the tenancy. The tenancy began in January 1, 2017 and ended when the Tenant moved out on October 15, 2018. Monthly rent of \$1,450.00 was due on the first day of each month. A security deposit of \$725.00 was paid at the outset of the tenancy. The tenancy agreement was submitted into evidence and confirms the details as stated by the parties.

The Tenant stated that he was served with a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") on August 21, 2018 due to the rental unit selling and the new owners intending to occupy the rental unit. The effective end of tenancy date of the Two Month Notice was October 31, 2018.

On October 4, 2018 the Tenant provided written notice to the Landlord that he would be moving out by October 15, 2018. The Tenant stated that he paid rent for September 2018 and did not pay any rent for the period of October 1, 2018 to October 15, 2018. The Tenant has claimed for compensation in the amount of \$725.00 for the remainder of the rent he is owed due to receiving a Two Month Notice and being entitled to one month of rent compensation.

The Tenant submitted an email into evidence, dated October 9, 2018 in which the property manager wrote to the Tenant and confirmed he would not be receiving any money back as he did not pay October 2018 rent.

The Tenant also submitted the Two Month Notice dated August 21, 2018 along with a letter from the Landlord confirming that the property had sold and that the new owners would be moving in on November 1, 2018.

The Landlord stated that they served the Tenant with the Two Month Notice on August 21, 2018. They received his written notice to move out on October 4, 2018, to move out on October 15, 2018. The Landlord stated that as compensation for the Two Month Notice, they did not charge any rent to the Tenant for October 2018.

The Landlord submitted into evidence the request from the seller to end the tenancy for their use of the property, a copy of the Two Month Notice, and a copy of the Tenant's written notice to end tenancy. They also submitted an email from their accountant confirming that no rent was charged for October 1, 2018 and a copy of the Tenant's account ledger showing that no rent was outstanding for October 2018.

Analysis

The parties were in agreement that the tenancy ended due to a Two Month Notice issued under Section 49 of the *Act* and that the Tenant exercised his right to end the tenancy early under Section 50 of the *Act*. Under this Section, a tenant may provide 10 days' written notice to end the tenancy, which in this case was provided on October 4, 2018 to move out on October 15, 2018.

Section 50 of the Act states the following:

50 (1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and

(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 [*tenant's compensation: section 49 notice*].

As stated in Section 50(1), after giving 10 days' notice to move out, the Tenant is only responsible for rent for the period which he was still residing in the rental unit. Although the Tenant did not pay rent for October 2018, had he paid the full rent of \$1,425.00 on October 1, 2018, he would have been entitled to a refund of \$725.00 pursuant to Section 50(2).

Therefore, I find that the Tenant was only responsible for \$725.00 of rent for the period of October 1 to October 15, 2018. As the Tenant did not pay this and this amount was not charged by the Landlord, he received compensation equivalent to \$725.00; the amount he would have paid for the time in which he resided in the rental unit.

As stated in Section 50(3), a tenant's notice to vacate early after receiving a Two Month Notice does not affect their right to compensation under Section 51 of the *Act*. Section 51(1) states the following:

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.

As the Tenant moved out based on the Two Month Notice, he was entitled to compensation in the amount of \$1,450.00, pursuant to Section 51(1) of the *Act*.

As stated, the Tenant has received the equivalent of \$725.00 in compensation due to not paying rent for October 1<sup>st</sup> to October 15, 2018 and therefore I find that the Tenant is owed an additional \$725.00 to equal the full month of compensation he is entitled to under Section 51 of the *Act*.

As the Tenant was successful with this application, I also award the recovery of the filing fee in the amount of \$100.00, pursuant to Section 72 of the *Act*.

### Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenant a **Monetary Order** in the amount of **\$825.00** for compensation in the amount of half a month's rent and for the recovery of the filing fee for this application. The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this 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: December 14, 2018

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Residential Tenancy Branch