



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1079110 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

MNDCT, FFT

### **Introduction**

This hearing was convened in response to an application by the tenant for a Monetary Order pursuant to Section 51(2) of the *Residential Tenancy Act* pre May 17, 2018 (the Act), and recover the filing fee.

Both parties attended the hearing and the landlord acknowledged receiving the application and evidence of the tenant consisting of 9 pages, albeit considerably later than required by the Act. None the less, the landlord elected to proceed in this matter to final resolve and to have any relevant evidence stated orally by the tenant. The landlord further acknowledged not submitting evidence of their own. The parties gave testimony and were provided the opportunity to make relevant submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

### **Issue(s) to be Decided**

Is the tenant entitled to the monetary amounts claimed?

### **Background and Evidence**

The relevant undisputed evidence in this matter is as follows. This tenancy ended pursuant to a Section 49 Notice to End for Landlord's Use in 2017. The last rent payable under the tenancy agreement was \$1100.00 per month. I have benefit of the 2 Month Notice to End Tenancy for Landlord's Use of Property (the Notice) dated March 27, 2017, for the stated purpose pursuant to **Section 49(3)** of the Act in which the landlord or the landlord's close family would occupy the rental unit. The effective date of the Notice was May 31, 2017 and the tenant acted on the Notice.

The landlord testified that their son moved into the rental unit soon after the effective date of the Notice in June 2017 for a period of 4 weeks then moved out and the rental unit subsequently was re-rented.

### **Analysis**

As the Section 49 Notice to End Tenancy for landlord's Use was served on the tenant prior to when the Act was proclaimed amended on May 17, 2018 in respect to compensation for a Section 49(3) Notice, the tenant hereby effectively claims compensation under the provisions of Section 51(2) of the Act: *pre May 17, 2018* which provided as follows:

**51(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.

I find the evidence of the landlord is they entered into an ongoing new tenancy immediately after their son's short term occupation of the rental unit following the effective date of the Notice. I find the landlord may have taken steps toward satisfying Section 51(2)(a), however, they failed to satisfy the requirements of Section 51(2)(b).

As a result of the above, I find the tenant has established an entitlement under Section 51(2) of the Act *pre May 17, 2018* in the prescribed amount equivalent of double the monthly rent payable under the tenancy agreement of \$1100.00. Therefore, I grant the tenant double this amount in the aggregate of \$2200.00. As the tenant was successful in their claim they are entitled to recover their filing fee of \$100.00, for a sum award of **\$2300.00**.

Therefore,

**I grant** the tenant an Order under Section 67 of the Act for the amount of **\$2300.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**Conclusion**

The tenant's application is granted in the above terms.

**This Decision is final and binding.**

*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: May 08, 2019

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Residential Tenancy Branch