



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL, MNDCT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

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- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49.

The tenants participated in the teleconference, the landlord did not. AT testified that she personally served the landlord by registered mail and sent him a text advising of this hearing. The landlord submitted some documentation for this hearing. I am satisfied that the landlord is aware of today's hearing, accordingly, the hearing proceeded and completed on that basis. The tenants were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Preliminary Issue

The tenant moved out of the unit on January 31, 2018, accordingly; I dismiss the tenant's request to have the notice cancelled.

### Issue to be Decided

Is the tenant entitled to a monetary order the equivalent of two months' rent as claimed?

### Background and Evidence

AT gave the following testimony. The tenancy began “sometime in 2015 and ended on January 31, 2018”. The monthly rent was \$750.00. On December 27, 2017 the landlord served the tenant with a two month Notice to End Tenancy for Landlords’ Use of Property. The ground for the Notice was that the rental unit would be occupied by the landlord or the landlord’s close family member. The tenant moved out of the rental but believes no one has lived in the unit since they moved out.

### Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month’s rent. Section 51 (2) of the Act states as follows:

- (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.

The tenant requests the equivalent of 15 months’ rent as compensation, despite the Act only granting two months’ rent as compensation at the time this notice was issued and as noted on page 2 of the notice the tenant submitted for this hearing.

It is worth noting that the tenant was extremely disorganized when presenting her claim. She was unable to answer basic questions or provide answers’ to the claim she put forth or able to explain the amount she noted on the application and what she was seeking on the day of the hearing. Much of her claim lack clarity or logic. The tenant presented her evidence in a very disjointed and vague fashion. The tenants’ testimony and documentation were in conflict through much of the hearing, when it was; I considered the sworn testimony in coming to her monetary calculations. Residential Tenancy Branch Rules of Procedure 3.7 addresses this issue as follows.

### **3.7 Evidence must be organized, clear and legible**

All documents to be relied on as evidence must be clear and legible.

To ensure a fair, efficient and effective process, identical documents and photographs, identified in the same manner, must be served on each respondent and uploaded to the Online Application for Dispute Resolution or submitted to the Residential Tenancy Branch directly or through a Service BC Office.

For example, photographs must be described in the same way, in the same order, such as: "Living room photo 1 and Living room photo 2".

To ensure fairness and efficiency, the arbitrator has the discretion to not consider evidence if the arbitrator determines it is not readily identifiable, organized, clear and legible.

I did not find the tenants' testimony to be compelling based on the inconsistent, contradictory and disorganized way in which it was presented. In addition, the tenants did not provide sufficient evidence to show that the unit was empty as alleged. The tenants submitted documents for an unrelated matter and were confused throughout the hearing. Based on all of the above and on a balance of probabilities, I hereby dismiss this application in its entirety without leave to reapply.

### Conclusion

The tenants' application is dismissed in its entirety without leave to reapply.

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: July 09, 2019

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Residential Tenancy Branch