



# 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 in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlords and Tenants were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Witness provided evidence under oath.

### Issue(s) to be Decided

Are the Tenants entitled to the monetary amount claimed?

### Background and Evidence

The tenancy started on November 15, 2015. Rent of \$3,200.00 was payable on the first day of each month. The security deposit has been dealt with. The Landlord served the Tenants with a two month notice to end tenancy for landlord’s use (the “Notice”) dated January 22, 2019. The Notice carries an effective move-out date of March 31, 2019. The Tenants moved out of the unit on March 24, 2019. The reason stated on the Notice is that the landlord or a close family member of the landlord will occupy the unit.

The Tenant states that the Landlord did not occupy the unit and that it was empty as late as August 2019. The Tenants claim 12 months rent or \$38,400.00. The Tenants restrict its total monetary claim to \$35,000.00.

The Landlord confirms that they did not move into the unit until September 5, 2019. The Landlord states that they intended to move into the unit and complete minor renovations while living in the unit. The Landlord states that in mid April 2019 she became pregnant. The Landlord states that she had a pre-existing problem with severe allergies and that because of being pregnant the allergies could become worse or the treatment for the allergies would be limited due to the pregnancy. The Landlord states that as a result of the pregnancy it was decided to have the renovations completed prior to their move into the unit. The Landlord states that they were delayed in completing the renovations as the Strata did not approve the renovations until June 2019 and that the renovations were then completed as soon as possible given contractor schedules. The Landlords provide medical and contractor documentation.

### Analysis

Section 51(2)(a) of the Act provides that subject to subsection (3), the landlord must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if steps have not been taken, within a reasonable period after the effective date of the notice, to accomplish the stated purpose for ending the tenancy. Section 51(3) of the Act provides that the landlord may be excused from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord from accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy. Policy guideline #50 sets out that if a landlord gives a notice to end tenancy for the reason that the landlord will occupy the rental unit or have a close family member occupy the rental unit, the landlord or their close family member must occupy the rental unit at the end of the tenancy. A landlord cannot renovate or repair the rental unit instead. After thorough

consideration of the evidence before me I find that there is no evidence that the Landlords undertook renovations instead of occupying the unit. It is undisputed that the Landlord intended to and did move into the unit as stated on the Notice. Based on the undisputed evidence that the Landlord only delayed the move into the unit due to medical conditions and a pregnancy that complicated matters and accepting that delays occurred due to the required Strata approvals and the lack of availability of contractors, I find that in these circumstances the Landlord did move into the unit within a reasonable time after the effective date of the Notice. As such I find that the Tenants are not entitled to the compensation claimed and I dismiss their application.

### Conclusion

The Tenants' application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: September 30, 2019

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Residential Tenancy Branch