



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNR, FF

### Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For a monetary order for unpaid rent and loss of rent; and
2. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. For a monetary order for compensation pursuant to 49 and 51 of the Residential Tenancy Act, "the Act".
2. To recover the cost of filing the application.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Preliminary and procedural matters

The landlord withdrew their claim. Therefore, I dismiss the landlord's claim without leave to reapply.

Both landlord's and tenant's evidence were given through their agent as both the landlord's and tenant's English were limited.

### Issue to be Decided

Is the tenant entitled to compensation pursuant to section 49 and 51 of the Act?

### Background and Evidence

The parties entered a tenancy which was to begin on July 15, 2019. Rent in the amount of \$1,580.00 was payable of the first of the month. The tenant paid a security deposit of \$800.00. The security deposit has been returned to the tenant. The tenant should ensure they cash the cheque that was received.

The tenant testified that they entered into an agreement to rent the premises; however, the landlord decided they would not rent to them. The tenant testified that they should be entitled to receive one-month compensation, pursuant to section 49 and 51 of the Act in the amount of \$1,580.00.

Filed in evidence is correspondence between the parties.

The tenant testified that they should also be entitled to receive the equivalent of 12 months rent as the landlord was advertising the rental unit. The tenant confirmed they did not receive a notice to end tenancy pursuant to section 49 of the Act. The tenant seeks to recover the amount of \$18,960.00.

The landlord testified that they did not end the tenancy and that they told the tenant that they could move in on July 15, 2019; however, they never heard from the tenant.

Filed in evidence is correspondence between the parties.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Tenant's compensation: section 49 notice

**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.

(2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice 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

- (a) 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, or
- (b) the rental unit is not used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

I accept the parties entered into a tenancy agreement which was to begin on July 15, 2019. The tenant did not move into the property. I have reviewed the evidence of both parties. I find the landlord was very aggressive towards the tenant. The correspondence supports that the landlord was not going to allow the tenant to move into the premises and there was a threat of the landlord calling the police, should the tenant attend.

While I accept the landlord later corresponded with the tenant to allow the tenant to move-in to the premise; however, there was no evidence that it was received. Further, I find it is unreasonable for the landlord to expect the tenant to move into the premise after they told the tenant they could not move in and threatened them with police action.

In this case, the tenant seeks compensation pursuant to section 51 of the Act. The tenant acknowledged that they did not receive a notice to end tenancy pursuant to section 49 of the Act. As the tenant did not receive a notice to end tenancy under this section of the Act, I find the tenant is not entitled to compensation under section 51 of the Act. Therefore, I dismiss the tenant's application.

### Conclusion

Both parties' respective applications are 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 *Residential Tenancy Act*.

Dated: January 14, 2020

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Residential Tenancy Branch