



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant's counsel, R.A. (the tenant) attended the hearing via conference call and provided undisputed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 17, 2019. I accept the undisputed testimony and find that the tenant properly served the landlord with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant stated that the tenancy began on January 1, 2018 and ended on December 31, 2018 as per the submitted copy of the signed tenancy agreement dated January 1, 2018. The monthly rent was \$2,800.00 payable on the 1<sup>st</sup> day of each month and a security deposit of \$1,300.00 was paid.

The tenant seeks a monetary claim of \$33,700.00 which consists of:

\$33,600.00	Compensation, Sec. 51, 12 months X \$2,800/month
\$100.00	Filing Fee

The tenant stated that the landlord served the tenant with a 2 month notice for landlord's use of property dated November 1, 2018 in person on November 1, 2018. The 2 month notice sets out an effective end of tenancy date of December 31, 2018 with one reason selected as:

The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).

The tenant stated that the tenancy ended on December 31, 2018 in compliance with the 2 month notice. The tenant became aware that the landlord was using the rental property as an "AIRBNB". In support of this claim the tenant has submitted a copy of an "AIRBNB" advertisement with a picture of the front of the house identifying the house number for \$399 per night. Attached is a one page description of the property showing that the landlord joined n April 2019, 2 pages of testimonials for reviews from May and June 2019, and a picture of a street map for the location.

### Analysis

Section 51 (2) of the Act states in part that a tenant a notice under section 49, the landlord must pay to the tenant, in addition to the amount under section (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if 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.

In this case, I accept the undisputed evidence of the tenant that the tenancy ended on December 31, 2018 in compliance with the 2 months notice dated November 1, 2018. The tenant has provided undisputed evidence that within 4 months the landlord had advertised the rental unit available in April 2019 and did in fact rent it out on "AIRBNB" in May and June 2019 as shown in the submitted advertisement. On this basis, I find

that the landlord did not use the rental unit as per stated purpose on the notice for at least 6 months. The tenant has established a claim for compensation under section 51 of the Act for 12 times the monthly rent of \$2,800.00 for \$33,600.00.

The tenant having been successful is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

The tenant is granted a monetary order for \$33,700.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, the 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: March 12, 2020

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Residential Tenancy Branch