



# 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 her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail. Both parties also confirmed the landlord served the tenant with the submitted documentary evidence via Canada Post Registered Mail on March 30, 2020. Neither party raised any service issues. I accept the undisputed affirmed testimony of both parties and find that both parties have been sufficiently served 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.

Both parties confirmed that monthly rent was \$1,650.00 during the tenancy.

The tenant seeks an amended monetary claim of \$19,800.00 which consists of:

\$19,800.00	Compensation, Sec. 51(2), Fail to Use as for stated purpose \$1,650.00 X 12 months
\$100.00	Filing Fee

Both parties confirmed the landlord served a 2 month notice for landlord's use of property dated September 12, 2019 to the tenant with an effective end of tenancy date of September 12, 2019. The stated reason selected on the notice is:

***All the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.***

The tenant states that she complied with the notice and vacated the rental unit and later discovered that the landlord did not sell the house. The tenant stated that they had suffered costs in moving on short notice and have had to pay a new higher rent in finding a new tenancy on short notice. The tenant stated the unit has now been re-rented.

The landlord stated that the entire property was being sold as a "Lease to Purchase Option Agreement" which is a valid contract. The landlord argued that this lease to purchase option was for the sale to the purchaser. The landlord stated that the sale would not be "closed" until September 1, 2020. The landlord stated that at no time was notice in writing given by the purchaser to the landlord requesting vacant possession of the property.

### Analysis

Section 51 (1) and (2) of the Act states that a tenant who receives a notice under section 49 is entitled to compensation in an amount equal to 12 times the monthly rent payable under the tenancy agreement if steps have not been taken, within a reasonable time after the effective date of the notice, to accomplish the stated purpose for ending the tenancy or 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, both parties confirmed that the landlord served to the tenant the 2 month notice dated September 12, 2019. Both parties confirmed the tenant complied and vacated the rental unit. The landlord provided undisputed affirmed testimony that all of the conditions for the sale have not yet been satisfied as the closing date is for September 1, 2020. I find based upon the undisputed testimony of both parties that the landlord did not meet all of the conditions for sale as having been satisfied as the closing date is on September 1, 2020 approximately 1 year after the end of tenancy and 6 months into the future of this hearing. The landlord also provided undisputed affirmed testimony that at no time has the purchaser requested in writing notice be given to the tenant to vacate the rental for the purchase to occupy it. Both parties confirmed that monthly rent was \$1,650.00. I find based on the details above that the landlord failed to sell the property as claimed. The tenant's application is granted and has established a claim for \$19,800.00.

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 \$19,900.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: April 07, 2020

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Residential Tenancy Branch