



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDCT

### **Introduction**

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for a monetary order for compensation for money owed under the *Act*, regulation or tenancy agreement pursuant to section 67.

Both parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The respondent confirmed receipt of the tenants' application. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenants' application. As all parties confirmed receipt of each other's evidentiary materials, I find that these were duly served in accordance with section 88 of the *Act*.

### **Issues(s) to be Decided**

Are the tenants entitled to a monetary order for compensation for money owed under the *Act*, regulation, or tenancy agreement?

### **Background and Evidence**

This tenancy ended on February 29, 2020 after the tenants moved out pursuant to a 2 Month Notice to End Tenancy for Landlord's Use of Property. Monthly rent was set at \$825.00, payable on the first of every month. The landlord stated on the 2 Month Notice the following reason for ending the tenancy: "All of 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". A copy was included as part of the tenants' evidence.

It is undisputed by all parties that the original landlord had sold the home, and the tenants were served with the 2 Month Notice after it was requested by the new owner.

The tenants are seeking monetary compensation equivalent to 12 month's rent as allowed by the *Act* for the failure of the new owner to use the home for the reason stated on the 2 Month Notice. The tenants submitted a copy of a text message sent by the respondent on February 28, 2020 that stated "My brother in law is moving in on the first of March (Sunday). I hope you made arrangements".

The respondent testified in the hearing that the plan was for his father to move into the basement suite, but he was away on a trip to Mexico from March 10 to March 17, 2020. Due to quarantine requirements, his father stayed at his old home for 14 days before moving into the basement suite. The respondent testified that while his father was in Mexico, he had allowed his brother-in-law to reside there on a temporary basis as he was in between places, and looking for a place to live. The respondent testified that his brother-in-law moved in on March 8, 2020 after renovations were done, and stayed there until March 28, 2020. The respondent submitted documents such as his father's driver's license and photo of his father inside the suite to support that his father is now residing there.

### **Analysis**

**Section 51(2) of the *Act*** reads in part as follows:

*51(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.*

*(3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as the case may be, from*

*(a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, or*  
*(b) using the rental unit for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.*

I have considered the testimony and evidence of both parties, and I find that the respondent has complied with section 49(3) of the *Act*. I find that the respondent provided a reasonable explanation as to why his father could not move in immediately, and I am satisfied that his father eventually moved in within a reasonable period after the effective date of the notice. I find that the respondent provide sufficient evidence to support that his father now resides in the basement suite. For these reasons, I dismiss the tenants' application without leave to reapply.

**Conclusion**

I dismiss the tenants' application 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 21, 2020

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Residential Tenancy Branch