



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNETC, MNDCT, FFT

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

The tenant, J.-D.G. attended the hearing via conference call and provided undisputed affirmed testimony. The tenant, D.H. did not attend nor was he represented. The named landlord did not attend or submit any documentary evidence.

The tenant, J.-D.G. stated that the landlord was served with the notice of hearing package and the submitted 21 documentary evidence files via Canada Post Registered Mail on November 21, 2020 and has submitted a copy of the Canada Post Customer Receipt and Tracking label as confirmation. I accept the undisputed affirmed evidence of the tenant and find that the landlord is deemed served as per section 90 of the Act.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation, for money owed or compensation for damage or loss 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 monthly rent was \$1,310.00 per month. The tenant's monetary claim was amended based upon this total.  $\$1,310.00 \times 12 \text{ months} = \$15,720.00$ .

The tenants seek an amended monetary claim of \$20,320.00 which consists of:

|             |  |
|-------------|--|
| \$15,720.00 | Compensation, Sec. 51 (2), 12 months @ \$                                      |
| \$4,500.00  | Compensation, 1 <sup>st</sup> months rent and security deposit for new tenancy |
| \$100.00    | Filing Fee   |
| \$20,320.00 | Total  |

The tenant stated that she seeks compensation under section 51 of the Act for \$15,720.00 ( $\$1,310.00 \times 12 \text{ months}$ ). The tenant stated that after complying with a 2 month notice to end tenancy issued for landlord's use, the landlord did not use the rental unit for the stated reason on the notice. The tenant stated that the landlord had re-rented it.

The tenant also seeks compensation of \$4,500.00 for reimbursement of their 1<sup>st</sup> monthly rent and the security deposit paid to her new landlord. No details for the monthly rent or the security deposit paid were provided during the hearing.

The tenants stated that they were served with a 2 month notice to end tenancy issued for landlord's use of property dated August 31, 2020. The 2 month notice provides for an effective end of tenancy date of November 30, 2020 and reason selected on the notice is:

*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.*

The tenant stated that she has provided copies of an online advertisement and a facebook post, both advertising the rental unit for rent by the landlord(purchaser). The tenant further stated that a neighbor, J.R. told her that renovations were made and

people have finally move-in. The tenant was asked if these were new tenants or the landlords. The tenant stated that she did not know and was “assuming” that it was new tenants.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed affirmed evidence of the tenant and find that a two month notice to end tenancy for landlord's use of property was served to the tenant. However, despite the tenant providing copies of advertisements for renting the unit, the tenant relies upon a verbal statement from a neighbor, J.R. who stated that renovations were completed and that someone had finally moved-in. The tenant was asked if she had confirmed if the new landlord had moved-in or was it a new tenant. The tenant responded that she did not check and was “assuming” that it was a new tenant”. On this basis, I find that the tenant was pre-mature in her application for compensation and has failed to provide sufficient evidence that the landlord did not move-in to the rental unit. This portion of the application is dismissed.

The tenants' application for \$4,500.00 in compensation is dismissed. The tenants seek additional compensation of 1 months rent and their security deposit paid for their new tenancy. Section 51 of the *Act* only speaks to compensation entitlement to a tenant for a landlord 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, or if the tenant 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. There are no further provisions for compensation under the *Act*.

### 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 *Residential Tenancy Act*.

Dated: March 07, 2021

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Residential Tenancy Branch