



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNETC, 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 her filing fee for this application from the landlord pursuant to section 72.

The tenant served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on December 12, 2020. The tenant stated that a copy of the Canada Post Registered Mail Receipt and the Customer Receipt Tracking label were submitted as proof of service. The landlord did not attend or submit any documentary evidence. I accept the undisputed affirmed evidence of the tenant and find that the landlord was properly 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.

The tenant seeks a monetary claim of \$6,100.00 which consists of:

\$6,000.00	\$500.00 X 12 months rent, Sec. 51 Compensation
\$100.00	Filing Fee

The tenant stated that she complied with a 2 month notice to end tenancy for landlord's use of property dated June 30, 2020, which was submitted as evidence by the tenant. The tenant stated that the reason on the notice was:

*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 notice also shows the selection:

*The child of the landlord or landlord's spouse.*

The tenant stated during the hearing that she was informed by the landlord that the rental unit would be occupied by the landlord's daughter.

The tenant stated that she discovered later that the property was listed for sale on November 11, 2020 and later sold on November 16, 2020 as per a submitted copy of a real estate listing for the property.

The tenant argues that the landlord issued the notice for landlord's use and later sold the property approximately 2 1/2 months after the end of tenancy. The tenant seeks 12 times the monthly rent of \$500.00 as compensation.

### Analysis

Section 51 of the Act states in part, a tenant who receives a notice under section 49 is entitled to compensation if the landlord, or purchaser who asked the landlord to give a notice must pay the tenant, in addition to the amount payable under subsection (1), an amount equal to 12 times the monthly rent payable under the tenancy agreement 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 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 affirmed evidence of the tenant that she complied with the 2 month notice dated June 30, 2020 by vacating the rental unit on August 31, 2020. The tenant provided undisputed affirmed evidence that the rental property was sold on November 16, 2020 and that the rental unit is not occupied by the landlord's daughter. On this basis, I find that the tenant has established a claim under section 51(2) of the Act for 12 times the monthly rent of \$500.00 for \$6,000.00.

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 \$6,100.00.

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: April 1, 2021

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Residential Tenancy Branch