



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC

### Introduction

The Tenant filed an Application for Dispute Resolution on July 2, 2021 seeking compensation from the Purchaser. This is related to their former Landlord's issuance of a Notice to End Tenancy for the landlord's Use of Property (the "Two-Month Notice") issued on November 25, 2020.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Act* on January 20, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Tenant attended the hearing, and they were provided the opportunity to present oral testimony and make submissions during the hearing. The Purchaser, named as the Respondent, did not attend the telephone conference call hearing.

### Preliminary Matters

To proceed with this hearing, I must be satisfied that the Tenant made reasonable attempts to serve the Purchaser with the Notice of Dispute Resolution for this hearing. This means the Tenant must provide proof that they served the document at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

The Tenant set out how they served this Notice to the Purchaser via registered mail on July 22, 2021. The Tenant provided they sent this Notice to the Purchaser's address as provided on the Two-Month Notice, with one piece of registered mail for each purchaser listed on that document. The Tenant stated that the packages they sent included all the evidence they intended to rely on for this hearing.

Based on these submissions, and proof in the form of tracking information, I accept the Tenant served each Purchaser with Notice of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*. The hearing thus proceeded in the Purchaser's absence.

### Issue(s) to be Decided

Is the Tenant entitled to monetary compensation for the Two-Month Notice from the Purchaser, pursuant to s. 51 of the *Act*?

### Background and Evidence

Though the Tenant did not provide a copy of the tenancy agreement they had with their former Landlord, they verified the details they provided on their Application. The agreement started in January 2018. The Tenant moved out on February 15, 2021. The Tenant paid \$2,050 per month in rent. This amount forms the basis for their claim for compensation.

The Tenant provided a copy of the Two-Month Notice issued by their former Landlord on November 25, 2020. This initially gave the move-out date of January 31, 2021; however, the Tenant stated they negotiated with the realtor for a final move-out date of March 31, 2021. On page 2, the indication is that the conditions of a sale have been completed, and the Purchaser asks for service of the Two-Month Notice for their own occupancy of the rental unit. The Purchaser's name and address was complete on page 2.

From the Tenant's testimony in the hearing, they provided that the following transpired after their move out in February:

- Their former neighbour informed the Tenant they would identify if anyone else other than the Landlord or their family occupied the rental unit.
- From the Tenant's own business, a package was sent to the rental unit, at that time their former address. When retrieving that from the postal box to which they still had the key, there were other items in the postal box for many other names at the rental unit. These were not showing the Purchaser's name. This was within the first week of June 2021.
- The Tenant inquired at the rental unit, finding the Purchaser showing the place to a prospective other tenant, as they confirmed to the Tenant. The purchaser informed the

Tenant they were going to call in regard to the key, so the Tenant handed it back at that moment.

- Reflecting on this, the Tenant searched online and found the rental unit advertised for individual room rentals, \$500 each per month.
- The Tenant's former neighbour advised the Landlord was no longer living in the rental unit.
- Approximately 15 days later, the Tenant made another visit to retrieve another piece of leftover mail. Another person came out and informed the Tenant that 5 people were living there, occupying different rooms in the rental unit home.

The Tenant provided copies of online ads in their evidence to show what they discovered. One ad is taken from a screenshot of June 13, 2021. One image from the first advertisement shows the rental street address, and states: "3 rooms available in a town house, CA \$500/Month."

The second ad, from the screen date of June 9, 2021, shows "furnished room for rent (female preferred)" for \$500 per month. Both ads show various viewpoints within the rental unit home.

On their Application, the Tenant provided the total amount of their claim as \$24,600. This is based on 12 months of rent at \$2,050 per month.

In the Tenant's own written statement, they sum up their position as follows:

It is crystal clear that we had been served the "End of Tenancy Notice" for the said property with the reason in good standing in order for occupying the property by the new purchaser for their immediate family or any close family member as stated in Tenancy Law and not for any other material gain, however, they rented the property and turn it to be hostel/dormitory for material gains.

### Analysis

Under s. 49(5) of the *Act* a landlord may end a tenancy if a purchaser asks the landlord in writing to end the tenancy, in good faith, for their own occupancy of the rental unit.

A Tenant's compensation in these circumstances is governed by s. 51 which provides:

- (2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant. . . an amount that is the equivalent of 12 times the monthly rent

payable under the tenancy agreement if the landlord or purchaser, as applicable, does not establish that

(a) the stated purpose for ending the tenancy was accomplished within a reasonable period after the effective date of the notice, and

(b) the rental unit . . . has been used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

I find the Purchaser, as set out in s. 51, is the party who asked the former Landlord to end the tenancy. In this hearing, the onus is on the Purchaser to show they accomplished the stated reason for ending the tenancy, as highlighted in s. 51(2) above. Here the Tenant provided sufficient evidence to establish that the Purchaser did not accomplish the stated purpose for ending the tenancy. That is, the Purchaser did not occupy the unit on their own as stated in the Two-Month Notice. I find the evidence shows the rental unit was advertised as available for rent as early as June 9, 2021. Two other advertisements verify that the rooms in the rental unit were on offer to new tenants.

I find this is clear evidence that the Purchaser did not use the unit for their own use as they so specified in the Two-Month Notice. There is no evidence the Purchaser remained in the unit for a period of up to six months because the ads provided by the Tenant here show the rooms on offer by the fourth month after the Tenant moved out. The Purchaser did not accomplish the stated reason for ending the tenancy. This is a breach of the *Act* governing the reason for the Purchaser ending the tenancy.

For these reasons, I find the Tenant has presented sufficient evidence to show they are entitled to compensation for a breach of the *Act* by the Purchaser. I grant the Tenant compensation in the amount specified by s. 51(2), the equivalent of twelve times the amount of the monthly rent of \$2,050. This is \$24,600.

### Conclusion

Pursuant to s. 51 of the *Act*, I grant the Tenant a Monetary Order in the amount of \$24,600. The Tenant is provided with this Order in the above terms, and they must serve it to the Purchaser as soon as possible. Should the Purchaser fail to comply with this Order, the Tenant may file the Order in the Small Claims Division of the Provincial Court where it may be 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 s. 9.1(1) of the *Act*.

Dated: January 20, 2022