



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the compensation claimed?

Is the Tenant entitled to recovery of the filing fee?

### Relevant Background and Evidence

The following are agreed or undisputed facts: the tenancy started on January 1, 2021. Rent of \$1,300.00 was payable on the first day of each month. On November 10, 2021 the Landlord gave the Tenant a two month notice to end tenancy for landlord’s use (the “Notice”). The effective date of the Notice was January 31, 2022 and the stated reason for the Notice was that the Landlord or the landlord’s spouse would occupy the unit. The Tenant moved out of the unit some days before the tenancy was due to end on January 31, 2022. The security deposit has been dealt with.

The Landlord states that they moved into the unit in February 2022 and then moved out a couple of days later as the Landlord’s girlfriend did not feel safe residing at the unit. The Landlord states that the girlfriend’s feeling of safety was taken seriously by the Landlord. The unit was listed for sale around the end of April or early May 2022 and was sold August 31, 2022.

The Tenant states that the Landlord never moved into the unit, renovated the unit and sold the unit. The Tenant provides a copy of a listing for the unit. The Tenant states that the Landlord's girlfriend is a real estate agent and would know the law on ending tenancies. The Landlord states that residential tenancy law is not something that agents are educated on and that the Landlord believes the girlfriend did not know the law.

### Analysis

Section 51(2) of the Act provides that 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 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, except in respect of the purpose specified in section 49 (6) (a), 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.

Based on the undisputed evidence that the Landlord gave the Tenant the Notice with the reason that the Landlord would occupy the unit and that the Landlord did not occupy the unit for more than a couple of days I find that the Landlord must pay the Tenant as the equivalent of 12 month's rent payable under the tenancy agreement in the amount of **\$15,600.00 (\$1,300.00 x 12)**.

Section 51(3) of the Act provides that 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 applicable, from

- (a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, and
- (b) using the rental unit, except in respect of the purpose specified in section 49
- (6) (a), for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

The only reason provided by the Landlord for moving out in a couple of days was that the girlfriend felt unsafe. There is no evidence that the unit was unsafe or that the Landlord could not occupy the unit for the same reason. No explanation or evidence to support the girlfriend's reasons for feeling unsafe was provided. As a result and given the Tenant's undisputed evidence that the unit was renovated before it was sold, it is my opinion there were no extenuating circumstances that prevented the Landlord from occupying the unit for at least 6 months. I therefore find that the Landlord is not excused from paying the Tenant the compensation claimed. As the Tenant's claim has been successful, I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$15,700.00**.

### Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$15,700.00**. If necessary, this order may be filed in the Small Claims 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: January 11, 2023

---

Residential Tenancy Branch