



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation related to a Notice to End Tenancy for Landlord's Use of Property pursuant to section 51;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the tenant's application and respective evidence submissions on file.

### Issues

Is the tenant entitled to a monetary order for compensation relating to a Notice to End Tenancy for Landlord's Use of Property?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background & Evidence

This tenancy began on April 1, 2011 and ended on May 31, 2021. The monthly rent prior to the end of the tenancy was \$925.00. The tenancy was with the previous owners of the property. The respondent in this application is the purchasing landlord.

On March 22, 2021, the seller landlord served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice"), pursuant to section 49 of the Act, with an effective date of May 31, 2021. The notice was issued on the grounds that the landlord entered into an agreement in good faith to sell the unit; all

the conditions of the sale have been satisfied; and, the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit. The tenant submitted a copy of the contract of purchase which included a clause that the seller must notify the tenant to vacate the property no later than May 31, 2021.

The tenant vacated the rental unit on May 31, 2021, as per the effective date of the Two Month Notice.

The tenant is claiming an amount equivalent of twelve times the monthly rent as compensation due to the purchaser not using the rental property for his own use after issuing the Two Month Notice.

The tenant claims the respondent renovated the property and resold it within five months and never occupied the property as intended.

The respondent submits that the property was purchased without being able to properly inspect it and during the showing the tenant restricted the viewing. Regardless, the respondent went ahead with the purchase. The respondent submits when he took possession he discovered the property was very filthy and had black mould issues. He did some renovation work on the property with the end goal of still moving in but the renovation work took longer and was more costly than originally anticipated. The respondents daughter who was to occupy the unit also changed her mind and no longer wanted to move-in. The property was resold on November 9, 2021, five months after the tenant vacated.

The tenant's advocate submits that the respondent has not demonstrated sufficient reasons that extenuating circumstances preventing him from occupying the rental unit.

### Analysis

Section 51 (2) of the Act provides that if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of twelve times the monthly rent payable under the tenancy agreement. The onus is on the landlord to establish that the stated purpose for ending the tenancy was accomplished.

Pursuant to section 51(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 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.

It was not disputed that the respondent did not accomplish the stated purpose for ending the tenancy after the effective date of the Two Month Notice. I find the argument put forward by the respondent as to why he was not able to accomplish the stated purpose for ending the tenancy is not an extenuating circumstance. It was the respondents lack of due diligence to purchase the property without a proper inspection and to request the seller to issue a Two Month Notice to the tenant at the same time. The respondents daughter changing her mind about moving-in is also not an extenuating circumstance.

I allow the tenants claim and award an amount of \$11,200.00, which is twelve times the monthly rent of \$925.00 plus the \$100.00 filing fee.

### Conclusion

Pursuant to section 51 of the *Act*, I grant the tenant a Monetary Order in the amount of \$11,200.00. Should the landlord fail to comply with this Order, this 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: March 30, 2023

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Residential Tenancy Branch