



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

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DECISION

Dispute Codes: MNDCT MNETC MNDCL FFL

Introduction

The Tenants seek compensation from their former Landlords, and by way of cross-application the Landlords seek compensation from the Tenants. Both applications were made under the *Residential Tenancy Act* (the “Act”) and this decision will address both of those applications.

A dispute resolution hearing was convened on Monday, September 8, 2025, and all parties, including additional family members, attended the hearing.

All parties were affirmed on the record, and there were no issues regarding the service of evidence.

Issues

1. Are the Tenants entitled to compensation?
2. Are the Landlords entitled to compensation?

Background and Evidence

In an application under the Act, an applicant must prove their claim on a balance of probabilities. Stated another way, the evidence must show that the events in support of the claim were more likely than not to have occurred. Although I have fully considered the parties’ submissions and the evidence to which they referred, I do not intend to refer in detail to all the evidence or testimony.

The tenancy began on April 1, 2012, and ended on or about September 29, 2024. There was no written tenancy agreement for this tenancy. The amount of rent paid is somewhat in dispute, and I will address this in greater detail. There was a security deposit paid but these funds have since been returned.

The Tenants' Claim

The Tenants' claim comprises two parts. The first claim is for \$9,600.00 for an illegal rent increase. The Tenants testified that on July 11, 2022, the Landlords advised the Tenants that rent would increase from \$1,400.00 to \$1,800.00. This represents a 28.5% increase, far exceeding the 1.5% increase amount set by the government.

The Tenants, out of fear of being evicted, began paying the higher amount on September 1, 2022. The Tenants testified that the Landlords threatened to evict the Tenants if they disputed the increase. In all, the Tenants seek \$400.00 for each of the 24 months during which they paid the increased amount.

The Landlords argued that the Tenants had 30 days to dispute a rent increase and that it is now three years since the increase. What is more, the Landlords testified that the Tenants never paid \$1,800.00, rather, they never paid more than \$1,600.00. Moreover, the Landlords denied that they ever threatened the Tenants with eviction if the Tenants disputed the rent increase.

For the second part of the Tenants' claim, the Tenants seek compensation under section 51(2) of the Act, on the basis that they were evicted for Landlords' use of property but that a close family member never moved into the rental unit. Rather, after vacating the rental unit at the end of September 2024, the Landlords extensively renovated the property and then, on March 30, 2025, the Landlords' granddaughter eventually moved in. The Tenants argued that the renovations were not only extensive but were unnecessary. They further argued that a reasonable period for a family member to move in would have been about one month.

In response to this claim, the Landlords argued that the notice to end the tenancy was made on the basis that the Landlords were a family corporation and that the granddaughter was a person owning voting shares in the corporation. The Landlords testified that it was their intention all along to extensively renovate the home, and that those renovations took about four months. There was never any bad faith in issuing the notice to end the tenancy and they fully intended to move in.

The Landlords' Claim

The Landlords seek \$9,000.00 for "the 6 months of each year where rent was short paid." According to the Landlords, they offered the Tenants a \$200.00 discount on rent if the Tenants agreed to cut the Landlords' lawn.

However, the lawn never required mowing during the winter months, and so it is the Landlords' position that the Tenants ought to pay for 6 months of the discounted amount over a period of 12½ years during which this lawn-cutting-for-rent-discount existed. As noted, there was no written tenancy agreement and the Landlords confirmed that "it was all verbal, nothing on paper."

Analysis

Tenants' Claim for Compensation

Regarding the first part of the Tenants' claim, I turn first to section 41 of the Act, which states that a landlord "must not increase rent except in accordance with this Part."

Section 43(1) of the Act states that "A landlord may impose a rent increase only up to the amount" (a) calculated in accordance with the regulations, (b) ordered by the director on an application under subsection (3), or (c) agreed to by the tenant in writing.

The Landlords issued a notice to the Tenants that rent would increase from \$1,400.00 to \$1,800.00. A \$400.00 increase is far over the permitted amount of 1.5% that was permitted under the regulations in 2022. However, the Landlords disputed that the amount ever paid was more than \$1,600.00. There is, I note, a reference in the rent increase letter to the "Balance monthly rent will be \$1600." I note that the Tenants have not provided any evidence to substantiate that they paid \$1,800.00.

Section 43(5) of the Act states that "If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase."

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the Tenants have proven a claim for a rent increase that did not comply with the Act and are therefore entitled to recover the increase. However, the facts support a finding that they are entitled to recover \$200.00 per month over a period of 24 months, and not \$400.00.

Therefore, I award the Tenants \$4,800.00 in compensation for a non-compliant rent increase. Finally, while the Landlords referred to some sort of thirty-day limitation period for disputing a rent increase, I can find no such provision in the Act or the regulations. The Tenants have a legal right under the Act to pursue recovery of a rent increase that did not comply with the Act.

Regarding the second part of the Tenants' claim, an application for compensation of this nature is made under section 51(2) of the Act, which states:

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.

Under section 51(2) and 51.4(4), the stated purpose for ending a tenancy, or the renovations or repairs, must be accomplished within a "reasonable period" after the effective date of the notice or order. In this dispute, the notice to end the tenancy had an effective date of October 1, 2024. The Tenants moved out on or just before this date.

The Landlords then renovated the property and the Landlords' granddaughter moved in just shy of six months after the effective date of the notice. Both parties testified that the property underwent extensive renovations. Given the nature of extensive renovations, a period of nearly six months is reasonable in this context.

The notice to end the tenancy was issued under section 49(4) of the Act, which states that "A landlord that is a family corporation may end a tenancy in respect of a rental unit if a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit."

In this dispute, the Landlords' oral evidence is that the granddaughter was a person owning voting shares in the corporation. The Tenants did not provide any evidence to refute the Landlords' evidence on this issue. While I acknowledge the Tenants' reference to a land title document, the Landlords themselves were a family corporation, as permitted under the Act. Further, the person owning voting shares in the family corporation is the person who occupied the rental unit within a six-month period.

For these reasons, it is my finding that the Landlords fulfilled their legal obligations under section 51(2) of the Act and the Tenants' claim for compensation is respectfully dismissed without leave to reapply.

Landlords' Claim for Compensation

Section 7 of the Act states that if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. A party claiming compensation must do whatever is reasonable to minimize their loss.

Section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

To determine if a party is entitled to compensation, the following four-part test must be met: (1) Did the respondent breach the Act, the tenancy agreement, or the regulations? (2) Did the applicant suffer a loss because of this breach? (3) Has the amount of the loss been proven? (4) Did the applicant take reasonable steps to minimize their loss?

The particulars of the Landlords' application are as follows:

I am requesting compensation for the 6 months of each year where rent was short paid. This was based on the agreement I had with our tenants that they would have a discount of \$100 from 2012 to 2022 From 2022 to 2024 a \$200 discount for each month they mowed the lawns. They paid the discounted amount through the months that there was no lawn mowing which should have been the full rental amounts

The Landlords entered into a verbal agreement with the Tenants whereby they would receive a "rent discount" if the Tenants agreed to mow the lawn. (The specific lawn to be mowed is immaterial to the dispute.) It is only now, almost a year after the tenancy has ended, that the Landlords seek to recover monies for an arrangement that was entirely of their own creation. Given the fact that the Landlords took absolutely no steps during more than a decade of letting the Tenants receive a monthly discount, year after year, I find that they must be prevented from receiving any compensation because of estoppel.

Estoppel occurs when one party to a legal claim is stopped from taking legal action that is inconsistent with that party's previous words, claims, or conduct. Estoppel is a legal doctrine which holds that one party may be prevented from strictly enforcing a legal right to the detriment of the other party, if the first party has established a pattern of failing to enforce this right, and the second party has relied on this conduct and has acted accordingly. To return to a strict enforcement of their right, the first party must give the second party notice (in writing), that they are changing their conduct and are now going to strictly enforce the right previously waived or not enforced.

In this case, the Landlords' failure to make any effort over a period of 12½ years to have the Tenants pay non-discounted rent for six months every year provided implied consent for the Tenants to continue paying a discounted rent amount. For this reason, I find that the Landlords are estopped from being awarded any compensation. The Landlords' application is therefore dismissed, without leave to reapply.

Conclusion

IT IS HEREBY ORDERED THAT:

1. The Tenants' application be granted, in part.
2. The Tenants are granted a monetary order for \$4,800.00. A copy of the monetary order is issued with this decision to the Tenants, who must serve a copy upon the Landlords. If necessary, the Tenants may file and enforce the monetary order in the Provincial Court of British Columbia.
3. The Landlords' application is dismissed, without leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: September 9, 2025

Residential Tenancy Branch