



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF. O

### Introduction

This hearing was convened by way of conference call concerning an Application for Dispute Resolution (the “Application”) made by the Tenants for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), to recover the filing fee, and for ‘Other’ issues, none of which were identified during the hearing.

The Tenants appeared for the hearing and provided affirmed testimony. However, there was no appearance by the Landlord during the 20 minute duration of the hearing and no submission of written evidence prior to the hearing.

As a result, I turned my mind to the service of the Notice of Hearing documents by the Tenants to the Landlord. The Tenants both testified that a copy of their Application and the Notice of Hearing documents had been served personally to the Landlord on April 10, 2014. Based on the undisputed testimony of both Tenants, I find that the Landlord was served with the documents for this hearing pursuant to Section 89(1) (a) of the Act.

The Tenants provided written evidence in advance of the hearing which consisted of the written tenancy agreement, two pages of hand written submissions, and a handwritten letter to the Landlord.

### Preliminary Issues

The Tenants seek monetary relief from the Landlord for one month’s rent in the amount of \$1,200.00 for the Landlord ending their tenancy for his own use and \$300.00 for repairs not completed by the Landlord during the tenancy.

The male Tenant explained that they had been given a notice to end their tenancy (the “Notice”) in March, 2014 because the Landlord wanted to move in and do renovations. When the Tenants were asked about the notice to end tenancy, they explained that the

Landlord had texted this on a text message that had been sent to them and that the Landlord had been pressuring them to get out. However, no text message was submitted in written evidence and the Tenant stated that he had submitted a copy of this to the Service BC office when the Application was made.

The Tenants testified that they gave the Landlord a written notice to end the tenancy earlier for the end of March, 2014 and receive their monetary compensation due to them for having to leave the rental suite for the Landlord's use of the property. A copy of this letter was submitted in written evidence.

In relation to the Tenants' claim for repairs not completed by the Landlord, the male Tenant explained that he had submitted photographic evidence with this Application which show the repairs that were required.

However, there were no photographs before me at the time of the hearing. I examined the documents completed by the Service BC staff when the Tenants made the Application which show that a total of 12 pages were submitted, including the Application documents. These pages were all accounted for but there were no pictures or text messages as claimed by the Tenants. In addition, the electronic records for this file indicate that there was no submission of any documentary evidence after the Application was made.

### Analysis

When a Landlord seeks to end a tenancy for the purposes of their own use under Section 47 of the Act, they are required by Section 47(7) of the Act to serve the Tenant with a Notice that complies with Section 52 of the Act. This Notice explains the Tenant's rights and obligations in ending the tenancy earlier, disputing the Notice and receiving monetary compensation.

In this case, I find that the Tenants did not receive a Notice that complied with the Act and there was no requirement for them to leave the rental suite, even if they felt they were pressured to.

In order for me to award the Tenants compensation under Section 51 of the Act, I need to be satisfied that the Landlord provided the Tenants with written notice to end the tenancy or there was sufficient evidence for me to determine that a written notice had been served to the Tenants that sought to end the tenancy on the basis that the Landlord wanted to move into the rental suite.

In the absence of the Landlord at the hearing and sufficient evidence to support a case that the tenancy was ended on basis that the Landlord wanted to end the tenancy for his own use, I am unable to grant the Tenants monetary compensation under Section 51 of the Act.

In relation to the Tenants' claim for repairs not completed by the Landlord, I find that it is appropriate for the Tenants to be given an opportunity to provide evidence which they were insistent had been provided for this file, and to allow them to present the merits of this claim. As a result, I give leave to re-apply for this portion of their Application as I did not hear any evidence in relation to this.

### Conclusion

For the reasons set out above, I **dismiss** the Tenants' Application for monetary compensation in the amount of \$1,200.00.

The Tenants' Application for a Monetary Order for the failure of the Landlord to do repairs is dismissed **with** leave to re-apply.

As the Tenants have failed to prove this Application, I dismiss the Tenants' request to recover the filing fee.

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: August 01, 2014

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Residential Tenancy Branch

