



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee paid for this application.

The tenant attended the telephone conference call hearing; the landlord did not attend.

The tenant testified that he served the landlord with his application for dispute resolution and notice of hearing by registered mail on September 28, 2014. The tenant submitted further that the landlord collected the registered mail. I note that the tenant was not able to locate a copy of the registered mail receipt verifying the tracking number during the hearing and I allowed the tenant to fax this information to me the day of the hearing. The tenant did so, and the documentary evidence confirmed the tenant's testimony.

Based upon the submissions of the tenant, I find the landlord was served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the tenant entitled to a monetary award and to recovery of the filing fee paid for this application?

### Background and Evidence

The tenant stated that this tenancy began in December 2013, ended on July 30, 2014, pursuant to a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "Notice"), and that monthly rent was \$1700.00. The tenant did not submit a copy of a written tenancy agreement.

The tenant's monetary claim is in the amount of \$3500.00, as stated, for 2 months' rent. I note that the tenant did not explain the discrepancy between his monetary claim and the actual amount for 2 months' rent compensation, which would be \$3400.00.

In support of his application, the tenant stated that he received the Notice from the landlord on or about May 8, 2014, for an effective move-out date of August 31, 2014. The reason listed on the Notice stated that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member. The tenant submitted a copy of the Notice.

The tenant submitted that he accepted the Notice and chose to vacate rental unit a month earlier than listed on the Notice.

The tenant provided that he was initially informed that the landlord intended to move into the rental unit; however, within a month of the tenant vacating the rental unit, the landlord listed the rental unit for sale, without ever moving in. The tenant supplied a copy of email communication between the parties and the realtor's listing for the property.

### Analysis

In the case before me, I accept that the landlord issued the tenant a 2 Month Notice to End Tenancy for Landlord's Use of the Property, pursuant to section 49 of the Act, and in this case, the landlord listed that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member.

Section 51(2) provides that if steps have not been taken to accomplish the stated purpose for ending the tenancy listed in the Notice within a reasonable time after the effective date of the Notice, or if the rental unit is not being used for the stated purpose, the tenant is entitled to compensation equivalent of 2 months' rent under the tenancy agreement.

I accept the tenant's undisputed evidence that the landlord, his spouse or a close family member never moved into the rental unit and additionally, listed the rental unit for sale shortly after the tenant vacated. I therefore find the tenant is entitled to monetary award of \$3400.00, the equivalent of 2 months' rent.

I grant the tenant recovery of the filing fee of \$50.00.

Due to the above, I find the tenant is entitled to a total monetary award of \$3450.00, comprised of compensation equivalent to 2 months' rent, or \$3400.00, and recovery of the filing fee of \$50.00.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$3450.00, which is enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

#### Conclusion

The tenant's application for monetary compensation is granted.

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 8, 2015

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Residential Tenancy Branch

