



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, FF

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied for:

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

The Landlord applied for:

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

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

### Preliminary Matter

During the hearing the Landlord confirmed that it did not serve the Tenant with its application for dispute resolution, notice of hearing or evidence package. The Landlord stated that the Residential Tenancy Branch (the “RTB”) told the Landlord that the Tenant did not need to be given a copy of the notice of hearing as the Tenant’s application was already scheduled for the same day.

Section 59 of the Act provides that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it. Rule 3.1 of the RTB Rules of Procedure provides that within 3 days of the hearing package being made available by the RTB an applicant must serve each respondent with a copy of the application for dispute resolution, the notice of hearing letter, the

information package and any evidence submitted to the RTB with the application. I do not consider the Landlord's evidence of being told by the RTB that service of the notice of hearing was not required as credible. As the Landlord did not give the Tenant the hearing package as required by both the Act and the Rules, I dismiss the application in its entirety.

Issue(s) to be Decided

Is the Tenant entitled to compensation equivalent to two months of rent?

Background and Evidence

The tenancy started on June 1, 2013 and ended on May 31, 2015. Rent of \$2,380.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,190.00 as a security deposit and \$1,190.00 as a pet deposit.

In May 2015 the Landlord gave the Tenant a two month notice to end tenancy for landlord's use (the "Notice"). The Notice contains two reasons: the landlord or close family member will move into the unit and the landlord has all the permits required to demolish or renovate the unit. The Tenant states that the Landlord told the Tenant that the Landlord would move into the unit and then demolish and rebuild the unit. The Tenant states that the Landlord did not apply for the permit to demolish the unit until May 27, 2015. The Tenant states that the Landlord never did move into the unit before it was demolished in August 2015. The Tenant claims \$4,760.00.

The Landlord states that they did not move into the unit after the tenancy ended as it was not suitable for habitation due to the state left by the Tenants. The Landlord states that they did demolish the unit and that they built a new home that they moved into.

Analysis

Section 51 of the Act provides that if

- (a) 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

(b) 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 double the monthly rent payable under the tenancy agreement.

Although the Act does not provide for a landlord to use more than one reason to end a tenancy for landlord's use, it is clear that the Tenant accepted both reasons for the tenancy to end. Although the sequence of events are different, as the evidence supports that the Landlord did demolish and rebuild a new home that they moved into I find that the reasons that the Tenant accepted were met by the Landlord. Although the permit was not obtained prior to the issuance of the Notice, as this is a matter of good faith intention at the time of the issuance of the Notice, it is not relevant to events that follow after the tenancy ends. For these reasons I find that the Tenant has not shown on a balance of probabilities an entitlement to the compensation claimed and I therefore dismiss the Tenant's application.

#### Conclusion

The Tenant's application is dismissed.

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: May 05, 2016

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Residential Tenancy Branch