



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

Both parties attended the hearing via conference call and provided undisputed affirmed testimony. The tenant provided undisputed affirmed evidence that the landlords were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on December 17, 2015. The landlords confirmed receipt of the tenant's notice of hearing package and the submitted documentary evidence as claimed by the tenant. The landlords did not submit any documentary evidence. I accept the undisputed affirmed evidence of both parties and find that both parties were properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act. The landlords are deemed to have been properly served 5 days later as per section 90 of the Act.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order for damage or loss under the Act, regulation or tenancy agreement?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenants seek a monetary claim for compensation of \$1,600.00 (\$800 Monthly Rent X 2) as the landlords after having served the tenant with a 2 Month Notice to End Tenancy for Landlords' Use (the 2 Month Notice) dated June 1, 2015 has not used the rental premises for the stated purpose for a period of at least six months.

Both parties confirmed that the landlords served the tenants with the 2 Month Notice dated June 1, 2015. The 2 Month Notice states that the reason for the notice being given as:

*The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.*

The landlord provided undisputed affirmed testimony that it was his intent after issuing the 2 Month Notice to have his brother move into the rental premises, but that the rental premise was sold. The landlord also clarified that after the intent for his brother to move in was no longer going to occur, the landlord offered the tenant an option to remain. Both parties confirmed that the tenant vacated the rental premises as required as per the 2 Month Notice. The landlords stated that he did not cancel the 2 Month Notice dated June 1, 2015.

During the hearing, the tenant also noted that the landlord's brother does not constitute a "close family member" as indicated on the 2 Month Notice.

### Analysis

Section 51 of the Act states that where a rental unit is not used for the stated purpose for a period of at least six months after a 2 Month Notice is served, the landlord must pay the tenant double the rent payable under the tenancy.

I accept the undisputed affirmed evidence of both parties that the landlords served the tenant with the 2 Month Notice dated June 1, 2015 with the above listed stated reason for the 2 Month Notice. I also accept the landlords claims that an offer for the tenant to remain in the rental premises was made, but that the landlords did not give notice or cancel the 2 Month Notice dated June 1, 2015.

I find based upon the landlords' direct testimony that the 2 Month Notice dated June 1, 2015 was not cancelled and that the tenant vacated the rental unit as per the 2 Month Notice. The landlord, R. N. provided undisputed affirmed testimony that the rental unit was subsequently sold and not occupied by a "close family member". As such, I find

that the tenant has established a claim for compensation pursuant to section 51 of the Act. The tenant's application for a monetary order for \$1,600.00 which is equal to double the \$800.00 monthly rent is granted.

Conclusion

The tenant is granted a monetary order for \$1,600.00.

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: July 14, 2016

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Residential Tenancy Branch