



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNL, MNDC, OLC, FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy and a monetary order.

The hearing was conducted via teleconference and was attended by both tenants.

The tenants provided documentary evidence that each of the landlords was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on April 29, 2017 to an address at which the landlords conduct business as landlords in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the documentary evidence of the tenants, I find that each landlord has been sufficiently served with the documents pursuant to the *Act*.

From the submissions of the tenants I determined that the tenancy had ended. In the hearing the tenants confirmed they vacated the rental unit on or before May 31, 2015. As such, I find the tenants are not seeking to cancel a notice to end tenancy and as such I amend their Application for Dispute Resolution to exclude the matter of cancelling the notice.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for compensation because the landlord has failed to use the rental unit for the stated purpose and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 51, 67, and 72 of the *Act*.

### Background and Evidence

The tenants submitted the tenancy began in June 2012 as a 2 year fixed term that converted to a month to month tenancy in June of 2014. By the end of the tenancy the monthly rent was \$3,180.00 due on the first of each month with a security deposit of \$1,300.00 paid.

The tenants confirmed they vacated the rental unit by May 31, 2015 in accordance with a 2 Month Notice to End Tenancy for Landlord's Use of Property issued by the former owner of the residential property on March 31, 2015. The Notice indicated that the reason to end the tenancy was that all conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give the Notice because the purchaser or a close family member intends in good faith to occupy the rental unit. A copy of the Notice was submitted into evidence.

The tenants submit that the day the sale of the property completed they saw a "For Rent" sign on the property. They contacted the property management company and on June 8, 2015 the property manager showed them the rental unit and confirmed that the rent would be \$3,600.00 per month. The tenants also submitted that they again contacted the property manager on June 26, 2015 and were informed that the property had been rented.

In support of their claim the tenants submitted photographs showing a sign posted on the front lawn of the property advertising its availability for rent and a screen shot of the advertisement on the property management company's website.

### Analysis

Section 49 of the *Act* allows a landlord to end the tenancy if, among other reasons, the landlord enters into an agreement in good faith to sell the rental unit, all the conditions on which the sale depends have been satisfied, and the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;

Section 51(1) of the *Act* states a tenant who receives a notice to end a tenancy under Section 49 is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Section 51(2) states that in addition, if 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 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 must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

From the undisputed testimony and submissions of the tenants, I find the tenants have established that they received a 2 Month Notice to End Tenancy for Landlord's Use and that the reason for the Notice was that the purchaser or a close family member of the purchaser was going to live in the rental unit.

I am also satisfied that immediately upon completion of the sale the purchasers then advertised the property for rent and subsequently, within 1 month of the completion, did not use the property for the stated purpose. I also find there is no evidence that the purchasers have ever used it for the stated purpose.

As a result, I find the tenants are entitled to the compensation pursuant to Section 51(2) in an amount equivalent to two month's rent. From the tenants' undisputed verbal testimony that rent, by the end of the tenancy, was \$3,180.00 I find the tenants are entitled to compensation in the amount of \$6,360.00.

### Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$6,460.00** comprised of \$6,360.00, as noted above, and the \$100.00 fee paid by the tenants for this application.

This order must be served on the landlords. If the landlords fail to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: September 22, 2017

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Residential Tenancy Branch