



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

O, FF

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant originally made application for authorization to reduce the rent and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution. The Tenant subsequently amended her Application for Dispute Resolution, in which she withdrew her application for a rent reduction and she requested a determination of whether she ended her tenancy in accordance with the *Residential Tenancy Act (Act)* and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the service address noted on the Application, on July 29, 2010. The Tenant cited a tracking number to corroborate this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the Tenant ended this tenancy in accordance with the *Act* and whether she is entitled to recover the filing fee from the Landlord for the cost of the Application for Dispute Resolution, pursuant to sections 45 and 72 of the *Act*.

### Background and Evidence

The Tenant stated that this tenancy began on February 12, 2010; that she signed a fixed term tenancy agreement that was scheduled to end on February 28, 2011; and that she agreed to pay monthly rent of \$1,400.00.

The Tenant stated that she determined she did not wish to live in the building due to noise disturbances and illegal activity in, and around, the residential complex, which she deemed to be a safety concern for her family. She stated that on June 29, 2010 she provided the Landlord with written notice of her intent to vacate the rental unit on July 31, 2010, and that she did vacate the rental unit on July 31, 2010.

### Analysis

I find that the Tenant entered into a fixed term tenancy agreement with the Landlord that was to continue until February 28, 2011 and that the Tenant ended this tenancy on July 31, 2010.

I find that the Tenant failed to comply with section 45(2) of the *Act* when she ended this tenancy on a date that is earlier than the date specified as the end of the tenancy in the written tenancy agreement. I am unable to conclude that the Tenant had the right to end this tenancy agreement prematurely because of noise disturbances and illegal activity in the area, as those issues did not render the rental unit uninhabitable.

### Conclusion

I find that the Tenant's Application for Dispute Resolution has been without merit and I therefore dismiss her application to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

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 10, 2010.

---

Dispute Resolution Officer