



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ALTHERR & SCHELLENBERG CATTLE CO.  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDCT

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on September 4, 2020, wherein the Tenant sought return of their security deposit and monetary compensation from the Landlord pursuant to section 51(2) of the *Act*.

The hearing of the Tenant's Application was scheduled for 1:30 p.m. on December 11, 2020. Both parties called into the hearing. The Tenant and his spouse, M.P. called in, as did A.A., the Landlord's Agent.

### Preliminary Matter

The Tenant confirmed that he received his security deposit such that this request was no longer applicable. I therefore dismiss the Tenant's claim for return of the security deposit.

### Issue to be Decided

Is the Tenant entitled to monetary compensation pursuant to section 51(2) of the *Act*?

### Background Evidence

This tenancy began July 9, 2018. Rent was payable biweekly in the amount of \$850.00. The Tenant paid a security deposit of \$475.00. As noted, those funds were returned to the Tenant.

On November 25, 2019 the Landlord sent an email to the Tenant asking the Tenant to vacate the rental unit by March 15, 2020. The Tenant complied with this request and moved from the rental unit.

### Analysis

The Tenant applied for compensation pursuant to section 51(2) of the *Residential Tenancy Act*. Such compensation is available to tenants who receive a notice to end tenancy pursuant to section 49 of the *Act*; for clarity I reproduce the relevant portions of section 49 as follows:

**49** ... (2) Subject to section 51 [*tenant's compensation: section 49 notice*], a landlord may end a tenancy

(a) for a purpose referred to in subsection (3), (4) or (5) by giving notice to end the tenancy effective on a date that must be

(i) not earlier than 2 months after the date the tenant receives the notice,

(ii) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and

(iii) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy, or

...

(3) A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

(4) A landlord that is a family corporation may end a tenancy in respect of a rental unit if a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

...

(7) **A notice under this section must comply with section 52** [*form and content of notice to end tenancy*] and, in the case of a notice under subsection (5), must contain the name and address of the purchaser who asked the landlord to give the notice.

...

[emphasis added in **bold**]

As noted in bold above, a notice to end tenancy pursuant to section 49 must comply with section 52 which reads as follows:

**52** In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b)give the address of the rental unit,

(c)state the effective date of the notice,

(d)except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,

(d.1)for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and

(e)**when given by a landlord, be in the approved form.**

[emphasis added in **bold**]

The undisputed evidence before me is that the Tenant did *not* receive a notice which complies in form and content with section 49 and 52 of the *Act*. Rather, the Tenant received an email from the Landlord on November 25, 2019, asking the Tenant to move out as the Landlord wished to renovate the unit. The email was not “in the approved form”, which as noted above, is #RTB-32. #RTB-32 must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, and provide reasons for ending the tenancy. #RTB-32 also provides the Tenant with information relating to their right to dispute the notice, as well as applicable timelines, and provides the Tenant with further details regarding the landlord's intention with respect to the party. Section 49(7) provides that a notice under section 49 *must* comply with section 52, and section 52 provides that the notice *must* be in the approved form; there is no flexibility with respect to these requirements.

The Tenant may have acted on the November 25, 2019 email, purporting to end the tenancy, however, this does give rise to compensation pursuant to section 51(2) of the *Act*. I therefore dismiss the Tenant's claim for compensation based on section 51(2) of the *Act*.

### Conclusion

The Tenant's request for return of the security deposit is dismissed without leave to reapply.

Similarly, the Tenant's request for monetary compensation pursuant to section 51(2) is dismissed without leave to reapply.

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: December 14, 2020

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Residential Tenancy Branch