



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNETC, FFT

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

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

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

### Preliminary Matters

The Parties confirmed receipt of each other's evidence.

Tenant MSR was named in error as a tenant in the application. The Parties agree to remove Tenant MSR from the application as this person is a Landlord.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

### Relevant Background and Evidence

The following are agreed facts: the tenancy started on February 1, 2020, with rent of \$1,500.00 payable on the first day of each month. The Landlord served the Tenant with a two month notice to end tenancy for landlord's use dated January 11, 2021 (the

“Notice”). The Notice sets out an effective date of March 31, 2021, and the Tenant moved out on that date. The Notice sets out that the unit will be occupied by the child of the landlord or the landlord’s spouse.

The Landlord states that the unit was occupied by the adult children of the Landlord’s spouse within about three days after their arrival from out of country on April 1, 2021. The Landlord states that the children continue to occupy the unit. The Landlord provides copies of permanent resident documents for the spouse and children’s arrival. The documents include photos of the spouse and children.

The Tenant states that when they attended the unit in June 2021, they found that the unit was being occupied by a family from out of country that did not look like the Landlord’s family. The Tenant states that when the Tenant first met the Landlord, the Landlord did not have a spouse. The Tenant argues that the Landlord did not provide proof of marriage to the spouse for these proceedings. The Tenant confirms that the email evidence dated December 2020, provided by the Tenant, includes the Landlord’s information that the Landlord’s family would be moving into the unit. The Tenant confirms that the persons seen in the unit in June 2021 are the same people as shown in the Landlord’s documents. The Tenant claims \$18,000.00.

The Landlord states that the marriage took place in 2019 and that in order to obtain permanent residency for the spouse, the Landlord was required to provide proof of marriage to immigration officials. The Landlord states that the spouse could not enter the country without being married.

### Analysis

Section 51(2) of the Act provides that the landlord must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if the landlord does not establish that

- (a) the stated purpose for ending the tenancy was accomplished within a reasonable period after the effective date of the notice, and
- (b) the rental unit, except in respect of the purpose specified in section 49 (6) (a), has been used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

The Landlord's documentary evidence is very persuasive. The Tenant's evidence does not detract from the weight of the Landlord's evidence and tends to support the Landlord's evidence of occupation by the spouse's children. For these reasons I find that the Landlord has substantiated that the unit was occupied as set out in the Notice and in accordance with the above section. The Tenant is therefore not entitled to the compensation claimed and I 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 Act.

Dated: February 07, 2022

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Residential Tenancy Branch