



# 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 by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on November 16, 2021 (the “Application”). The Tenants sought compensation from the Landlords related to a Notice to End Tenancy for Landlord's Use of Property and reimbursement for the filing fee.

The Tenant appeared at the hearing and appeared for Tenant H.Z. The Purchaser appeared at the hearing. Landlord Y.F. did not appear at the hearing. I explained the hearing process to the parties. I told the parties they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

The Tenant confirmed the correct legal name of Landlord Y.F. which is reflected in the style of cause.

The Tenants submitted evidence prior to the hearing. Neither the Purchaser nor Landlord Y.F. submitted evidence. I addressed service of the hearing package and Tenants' evidence.

The Purchaser confirmed receipt of the hearing package and Tenants' evidence.

The Tenant testified that the hearing package and their evidence were sent to Landlord Y.F. by registered mail to Landlord Y.F.'s residence on November 18, 2021. The Tenant confirmed Tracking Number 955 relates to the package sent to Landlord Y.F. The Tenant submitted documentary evidence of service. I looked Tracking Number 955 up on the Canada Post website which shows the package was delivered November 25, 2021.

Based on the undisputed testimony of the Tenant, documentary evidence of service and Canada Post tracking information, I am satisfied Landlord Y.F. was served with the hearing package and Tenants' evidence in accordance with sections 88(c) and 89(1)(c) of the *Residential Tenancy Act* (the "*Act*"). Based on the Canada Post tracking information, I find Landlord Y.F. received the package November 25, 2021. I also find the Tenants complied with rule 3.1 of the Rules in relation to the timing of service.

Given I was satisfied of service, I proceeded with the hearing in the absence of Landlord Y.F. The Tenant and Purchaser were given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

### Issues to be Decided

1. Are the Tenants entitled to compensation from the Landlords related to a Notice to End Tenancy for Landlord's Use of Property?
2. Are the Tenants entitled to reimbursement for the filing fee?

### Background and Evidence

The Tenants sought \$17,400.00 pursuant to section 51 of the *Act*.

The Tenants submitted a written tenancy agreement between them and Landlord Y.F. The tenancy started September 01, 2020, and was for a fixed term ending August 31, 2021. The Tenant testified that the Tenants moved out of the rental unit August 31, 2021.

The parties agreed the Purchaser bought the rental unit and was the owner of the rental unit for a period. The Purchaser testified that they became the owner of the rental unit September 01, 2021.

The Tenants submitted a Tenant Occupied Property – Buyers Notice To Seller For Vacant Possession form signed by the Purchaser. The Tenants did not submit a Two Month Notice to End Tenancy for Landlord's Use of Property. The Tenant testified that they only received the Tenant Occupied Property – Buyers Notice To Seller For Vacant Possession form and never received a Two Month Notice to End Tenancy for Landlord's

Use of Property. The Tenant confirmed they never received an RTB form ending the tenancy.

### Analysis

Section 51 of the *Act* states in part:

51 (1) A tenant **who receives a notice to end a tenancy under section 49** [landlord's use of property] 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...

(2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord **to give the notice** 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 or purchaser, as applicable, 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...

(emphasis added)

Section 51 of the *Act* only applies when tenants have been issued a notice to end tenancy pursuant to section 49 of the *Act*. The Tenant Occupied Property – Buyers Notice To Seller For Vacant Possession form is not an RTB form and is not a notice to end tenancy pursuant to section 49 of the *Act*. The Tenants were not issued a notice to end tenancy pursuant to section 49 of the *Act* and therefore are not entitled to compensation under section 51 of the *Act*, regardless of what occurred with the rental unit after they moved out. As explained to the Tenant at the hearing, the Tenant Occupied Property – Buyers Notice To Seller For Vacant Possession form did not end the tenancy, the Tenants were not required to move out of the rental unit pursuant to this form.

Given section 51 of the *Act* does not apply, the Tenants are not entitled to compensation and this request is dismissed without leave to re-apply.

Given the Tenants were not successful in the Application, the Tenants are not entitled to reimbursement for the filing fee.

The Application is dismissed without leave to re-apply.

### Conclusion

The Application is dismissed without leave to re-apply.

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: June 16, 2022

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Residential Tenancy Branch