



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNETC, FFT

### Introduction

The former Tenant (hereinafter, the “Tenant”) filed an application for Dispute Resolution on November 21, 2021 seeking compensation from the Landlord. This was related to the Landlord ending the tenancy. Additionally, they applied for reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 21, 2022. Both parties were present at the hearing, and each had the opportunity to ask questions on the process and present oral testimony during the hearing. The Landlord confirmed they received notice of this hearing directly from the Tenant, along with the Tenant’s prepared evidence. As well, the Landlord confirmed they did not submit evidence of their own.

### Background and Evidence

The Tenant provided a copy of the tenancy agreement that was in place between the parties. This document shows the rent amount at \$2,700 per month, with the tenancy starting on November 1, 2020, and ending its fixed term on October 30, 2020.

The Tenant provided that the tenancy ended when they moved out on October 31, 2021. This was after they jointly signed a Mutual Agreement to End Tenancy with the Landlord on October 18, 2021. The Tenant received the final month of this tenancy rent-free as promised, and they received their full security deposit refunded to them.

As stated in the hearing, they signed this agreement based on the premise that the Landlord was to come in and live on the property after the Tenant moved out. This was the information relayed to them by the Landlord’s agent, with discussion on this beginning a few months prior to the end. The Tenant agreed to one-month compensation as set out in the Mutual Agreement to End Tenancy that they provided in their evidence.

The Tenant recalled having discussion with the Landlord's agent who stated that the Landlord would let the Tenant stay longer with higher rent, meaning the Landlord would "maybe change their mind" on their need to end the tenancy. This led to the Tenant to suspect the Landlord had some other purpose in mind when discussing an end of this tenancy.

After they moved out, the Tenant discovered the rental unit was advertised online for a higher rent amount. This was information relayed by a friend. They contacted their former Landlord, and the Landlord's agent informed the Tenant that the Landlord changed their mind.

The Tenant submitted they signed the Mutual Agreement to End Tenancy with the understanding that the Landlord would be moving in. As they described in the hearing, this was "suspicious" because of the Landlord asking them about how much they would be willing to pay. When they asked the Landlord directly about the nature of that question as revealing of a different purpose for ending the tenancy, the Landlord's agent explained it was simply due to the Landlord's shifting priorities which was beyond their control.

In the hearing, the Landlord's agent verified the statements by the Tenant. They maintained they explained the situation to the Tenant, stating that there was an underlying uncertainty to the situation. The health restrictions due to a pandemic situation led the Landlord's priorities to shift. The Landlord's agent acknowledged posting an advertisement for the rental unit after this tenancy ended because the Landlord had changed their plan approximately one week after this Tenant moved out.

### Analysis

Under s. 44(1)(c), a tenancy may end where a landlord and a tenant agree in writing to end the tenancy.

Under s. 49 of the *Act*, a landlord may end a tenancy if they or a close family member intends in good faith to occupy the rental unit. There is compensation awarded in certain circumstances where a landlord issues a Two Month Notice to End Tenancy for Landlord's Use; that compensation is outlined in s. 51.

I find the Landlord did not issue a Two Month Notice to End Tenancy for Landlord's Use. I find the Tenant agreed to end the tenancy. If unsure, or still raising questions, the Tenant was in the position to decline signing the Mutual Agreement to End the Tenancy.

The according section awarding compensation is s. 51, and that refers only to "A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*]" . Because there was no Two Month Notice to End Tenancy, s. 51 does not apply.

Additionally, the Mutual Agreement to End Tenancy signed by the parties on October 18, 2021 contains the following proviso:

This form is NOT a Notice to End Tenancy. Neither a Landlord nor a Tenant is under any obligation to sign this form. By signing this form, both parties understand and agree the tenancy will end with further obligation between landlord(s) or tenant(s). If you are the tenant, this may include foregoing any compensation you may be due if you were served a Notice to End Tenancy.

I find this constitutes full disclosure of pertinent information to the Tenant regarding their legal rights. The Tenant did not present that they signed the document under pressure or some other form of coercion.

With the tenancy not ending by way of a Two-Month Notice, there is no link to s. 51, and the Tenant here is not eligible for compensation for this reason. The *Act* only allows for compensation in circumstances where a landlord served a Two Month Notice to End Tenancy for Landlord's Use.

Because the Tenant was not successful in their claim, I make no award for the Application filing fee.

### Conclusion

For the reasons outlined above, I dismiss the Tenant's claim for monetary compensation, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 23, 2022

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Residential Tenancy Branch