



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FORMA GROUP INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNETC

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenants on December 2, 2021, under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for compensation.

The Tenants and the Landlord attended the hearing at the appointed date and time. At the start of the hearing, the parties confirmed service and receipt of their respective Application and documentary evidence packages. As there were no issues raised, I find these documents were sufficiently served pursuant to Section 71 of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Are the Tenants entitled to a Monetary Order for compensation, pursuant to section 51 of the *Act*?

### Background and Evidence

The Tenants stated that their tenancy began on September 1, 2018. The Landlord stated that in 2021, he purchased several apartment units in the apartment building, including the rental unit which was occupied by the Tenants. The parties agreed that the Tenants were required to pay rent in the amount of \$1,825.00 which was due to the Landlord on the first day of each month. The Tenants paid a security deposit in the

amount of \$887.50. The tenancy ended on December 1, 2021. A copy of the tenancy agreement was submitted in support.

The parties testified and agreed that the Landlord purchased the rental unit and instructed the seller to serve the Tenants with the Two Month Notice to End Tenant for Landlord's Use dated September 23, 2021 with an effective date of December 1, 2021, as the Landlord's close family intends to occupy the rental unit. A copy of the Two Month Notice was submitted in support.

The Tenants stated that they complied with the Two Month Notice and vacated the rental unit on December 1, 2021. The Tenants stated that shortly after vacating the rental unit, they found rental advertisements of their rental unit for much higher rent. The Tenants stated that the pictures in the advertisements were of their rental unit. The Tenants provided copies of the rental advertisement in support.

The Tenants stated that they responded to the rental advertisement under a different name and provided the email exchange between the Tenants and the Landlord in support. The Tenants stated that the email exchange demonstrates that the Landlord was seeking to establish a one-year lease.

The Tenants are seeking compensation in the amount of twelve months rent pursuant to section 51 of the Act as they claim that the Landlord did not accomplish the intended purpose of the Two Month Notice.

The Landlord confirmed that he purchased the rental unit with the intention of moving in his wife's parents. The Landlord stated that he also purchased another unit in close proximity to the rental unit which has the identical floor plan as the rental unit. The Landlord stated that the other unit was undergoing renovations, and it was the Landlord's intent to rent the renovated unit once the work was complete.

The Landlord stated that because the rental unit and the unit being renovated were identical, the Landlord's Agent took pictures of the rental unit to advertise the unit being renovated, rather than waiting for the renovated unit to be completed prior to listing it. The Landlord referred to an email exchange between the Landlord's Agent and the Realtor dated November 19, 2021 which states;

*"Unit 407 is still under renovations, and we don't know when it's going to be finished due to delays from suppliers."*

The response from the Landlord's Agent states;

*"I can post some ads and see how much people are willing to pay for it. #405 should be vacant by December 1, I will take photos from there and create the ads..."*

The Landlord stated that the rental advertisement was for a different unit. The Landlord confirmed that his wife's parents occupied the rental unit as intended sometime before December 25, 2021. The Landlord provided pictures of his wife's father sitting in the rental unit, as well as confirmation that his wife's parents arrived to Canada on December 15, 2021. Lastly, the Landlord provided copies of utilities bills which lists the Landlord's wife's father's and the rental unit address. As such, the Landlord stated he has accomplished the stated purpose of the Two Month Notice.

### Analysis

Based on the oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 51(2) of the Act states that in addition to the amount payable under subsection one, if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or the rental unit is not used for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent to 12 times the monthly rent payable under the tenancy agreement.

In this case, I accept that the Landlord instructed the seller to serve the Tenants with the Two Month Notice as the Landlord intended to have his wife's parents occupy the rental unit. While the Tenants stated that they found advertisements of their rental unit for rent after the end of their tenancy, I find that the Landlord's evidence of email exchanges between the Realtor and the Landlord's Agent dated November 19, 2021 pre date the end of the tenancy, and confirms the Landlord's Agent's intent to take pictures of the rental unit once vacant, to advertise a different unit which had the same floor plan, but was being renovated.

I find that the Landlord provided sufficient evidence to demonstrate that his wife's parents have occupied the rental unit as intended when the Two Month Notice was served to the Tenants.

In light of the above, I dismiss the Tenants' Application without leave to reapply.

Conclusion

The Tenants have provided insufficient evidence to demonstrate that the Landlord has acted contrary to the Two Month Notice for Landlord's Use. I dismiss the Tenants Application 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: August 04, 2022

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Residential Tenancy Branch