



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

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- a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement, pursuant to section 67.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Are the tenants entitled to a monetary order the equivalent of twelve months' rent as claimed?

Background and Evidence

The tenants gave the following testimony. The tenancy had a monthly rent payable of \$1350.00 due on the first of each month. On July 13, 2021 the landlord served the tenants with a Two Month Notice to End Tenancy for Landlords' Use of Property. The Notice to End Tenancy required the tenants to move out of the rental unit by September 30, 2021. The ground for the Notice was:

- *All of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.*

The tenants moved out of the rental on September 24, 2021. The tenants testified that they were contacted by a neighbour that advised that their suite was rented out to a Caucasian male almost immediately after they moved out. The tenants testified that the landlords are not Caucasian and therefore it clearly shows a family member did not move into the space and that the notice was issued in bad faith. The tenants request 12 months rent as compensation for an amount of \$16,200.00 plus the \$100.00 filing fee.

The landlord testified that the Caucasian male is a friend of his brother. The landlord testified that he was a guest of his brothers and was not renting the space. The landlord testified that his brother, his parents, and he are all listed on title as owners of the home. The landlord testified that his brother, his parents, and himself have occupied the home since taking possession. The landlord testified that his brother is a "full on junkie". The landlord testified that since his brother is on title, he is entitled to have anyone over that he wishes. The landlord testified that he is confused as to why the tenants think that the notice was issued in bad faith when none of the home has been rented and that his entire family occupies and live in the home.

### Analysis

Section 51(1) of the Act requires that a landlord, who gives a notice under section 49, including the form of notice that is the subject of this application, must pay the tenant an amount equivalent to one month's rent. Section 51 (2) of the Act states as follows:

- (2) In addition to the amount payable under subsection (1), if
  - (a) 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
  - (b) the rental unit is not used for that stated purpose for at least 6 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 of twelve times the monthly rent payable under the tenancy agreement.

The applicants seeks payment of compensation in the amount of twelve times the monthly rent under the tenancy agreement pursuant to the quoted section of the Act because the property was not used for the stated purpose for ending the tenancy. The landlord provided submissions on behalf of all the landlords and addressed the tenant's allegations and I find the testimony to be compelling. The landlord was very forthright about his brother's addiction problems and the inability to remove his brothers friends from the home as his brother is also an owner.

The tenants are relying on secondhand information from a neighbor. That person did not participate in this hearing to provide sworn testimony. The tenants have no firsthand knowledge or information of whether the suite was rented out.

Based on the above, the landlord has provided sufficient evidence to dispute the allegation of the tenants that the unit was rented out. As the tenants have not provided sufficient evidence to support their claim, I hereby dismiss this application in its entirety without leave to reapply.

### Conclusion

The tenants application is dismissed in its entirety 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: September 08, 2022

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Residential Tenancy Branch