



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **MNETC, FFT**

### **Introduction**

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

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given an opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. One of the named respondents and an agent for the other named respondents attended. The tenant in attendance confirmed they were authorized to represent both named applicants.

In accordance with the *Act*, Residential Tenancy Rule of Procedure 6.1 and 7.17 and the principles of fairness and the Branch's objective of fair, efficient and consistent dispute resolution process parties were given an opportunity to make submissions and present evidence related to the claim. The parties were directed to make succinct submissions, and pursuant to my authority under Rule 7.17 were directed against making unnecessary submissions or remarks not related to the matter at hand.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The landlords testified that they received the respective materials and had not served any materials of their own. Based on their testimonies I find the landlords duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Are the tenants entitled to the relief sought?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. There was a tenancy agreement between the tenant and the former owners of the rental property. Monthly rent was \$2,700.00 payable on the 15<sup>th</sup> of each month. The Respondents are the purchasers of the rental property who issued a Buyers Notice to Seller for Vacant Possession on November 30, 2021. The Respondents say they have no information on whether the former owners of the property issued a Notice to End Tenancy in the prescribed form.

The tenant testified that the only document they received was the Buyers Notice to Seller for Vacant Possession. The tenant vacated the rental unit by February 1, 2022. The tenant now submits that the rental unit was not occupied by the Respondents and they seek a monetary award in an amount equivalent to 12 months rent pursuant to section 51 of the *Act*.

The Respondents confirm they did not move into the rental unit as they indicated they would in the Buyers Notice to Seller for Vacant Possession.

Analysis

Section 49(5) of the *Act* provides that a landlord may end a tenancy where the landlord enters into an agreement to sell the rental unit, all of the conditions have been satisfied, and the purchaser gives written request that the landlord give notice to end the tenancy.

Section 49(7) requires that a notice must comply with section 52 [form and content of notice to end tenancy].

Section 52 of the Act states as follows:

**52 In order to be effective, a notice to end a tenancy must be in writing and must**

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.**

Section 51(1) of the Act states that 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.

Further section 51(2) provides that a landlord or, if applicable, the purchaser who asked the landlord to issue a notice must pay the tenant the equivalent of 12 times the monthly rent if the stated purposes for ending the tenancy was not accomplished within a reasonable time and the property is not used for that purpose for at least 6 months' duration.

In the present case the tenant gave undisputed testimony that they were never given a notice to end tenancy and the only document they were provided by the previous owner was a copy of the Buyers Notice to Seller. A copy of the Buyers Notice was submitted into evidence.

I find the Buyers Notice does not meet the form and content requirements of section 52 of the Act as it is not in the prescribed form and is not signed by the landlord, the previous owner of the rental property. I therefore find the notice was not a valid notice to end tenancy per section 49 and there was no obligation on the part of the tenants to vacate the rental unit.

I find that the provision for 12 times the monthly rent under section 51(2) of the Act only apply in cases where a tenant receives a Notice to End Tenancy under section 49,

which requires that a notice be in compliance with the form and content requirements of section 52.

I note that pursuant to section 68(1) of the Act, if a notice to end a tenancy does not comply with the form and content provisions of section 52 I have the authority to amend the notice if satisfied that:

- (a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and
- (b) in the circumstances, it is reasonable to amend the notice.

I find that this provision specifically speaks to information that was omitted from an otherwise valid notice. Accordingly, I find this provision only allows me the ability to amend a notice in the prescribed form to include omitted information that should have been known to the person receiving the notice. This provision does not grant me the authority to accept a document that is not in the appropriate form and interpret it to be a valid Notice to End Tenancy.

I find that no valid Notice to End Tenancy was ever issued to the tenants. Therefore, I find no basis for a monetary award and dismiss the tenants' application in its entirety.

### Conclusion

The tenants' application is dismissed 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: November 1, 2022

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Residential Tenancy Branch