



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding RADONS HOUSING INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      MNECT FFT

### **Introduction**

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

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

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. Both parties confirmed that they understood.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing. In accordance with section 89 of the *Act*, I find that the landlord duly served with the tenants' application. As the tenants confirmed receipt of the landlord's evidentiary materials, I find the tenants duly served with the landlord's evidence in accordance with section 88 of the *Act*.

The landlord testified that they did not receive the tenants' evidence. As both parties consented, the tenants emailed the landlord with their evidence during the hearing. After reviewing the photos, the landlord confirmed that they were okay with the admittance of this evidence and proceeding with the scheduled hearing.

**Issues(s) to be Decided**

Are the tenants entitled to a monetary order for compensation under the *Act*, regulation, or tenancy agreement?

Are the tenants entitled to recover the filing fee for this application?

**Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on January 1, 2017, and ended on May 31, 2021 after the tenants were served with a 4 Month Notice to End Tenancy for Demolition. Neither party submitted a copy of the written tenancy agreement for this hearing. The tenants argued that rent was set at \$1,250.00, payable on the first of the month. The landlord testified that monthly rent was actually \$1,039.35 per month, but that the tenants were paying \$1,250.00 per month to catch up with arrears. Both parties agreed that the landlord had collected a security deposit of \$487.50 and a pet damage deposit of \$218.75 for this tenancy.

On July 3, 2020, the tenants were served with a 4 Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of a Rental Unit. The reason selected was for the landlord to demolish the rental unit. Although the effective date of the 4 Month Notice was December 1, 2020, the landlord had agreed to extend the tenancy to allow the tenants more time to move out. Both parties confirmed that the tenants moved out on May 31, 2021. A copy of the letter was submitted in evidence which stated that the tenants “must maintain the \$1250.00 per month minimum payment” and that the landlord would postpone the dismantle.

The tenants filed this application as they submit that the landlord had informed them that the entire house would be torn down and rebuilt. The tenants submitted photos of the home taken on June 5, 2022, and noted that the house is still standing, with some modifications.

The landlord responded that shortly after the tenants had moved out, they started demolition of the home. The landlord submitted photos as well as a timeline of the work that was completed, which the landlord testified had began in July of 2021. The landlord

submits that the demolition included removal of the entire roof and rafters, and demolition of the upper two bedrooms. The landlord submits that the house was demolished down to the 2x4 studs, and all the plumbing, electrical, windows, and cabinetry were removed. The landlord testified that the home is no longer a 2 storey, 4 bedroom home, and that the house is now a 1 bedroom rancher. The landlord confirmed that the home was re-rented as of September 1, 2022.

### **Analysis**

Sections 51(2) and 51(3) of the *Act* state that:

(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.

(3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as applicable, from

(a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, and

(b) using the rental unit, except in respect of the purpose specified in section 49 (6) (a), for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

In this case, the landlord had ended the tenancy pursuant to section 49(6)(a), in order to demolish the rental unit.

As stated in Residential Policy Guideline #50:

**C. ADDITIONAL COMPENSATION FOR ENDING TENANCY FOR LANDLORD'S USE OR FOR RENVOATIONS AND REPAIRS**

A tenant may apply for an order for compensation under section 51(2) of the RTA if a landlord who ended their tenancy under section 49 of the RTA has not:

- accomplished the stated purpose for ending the tenancy within a reasonable period after the effective date of the notice to end tenancy, or
- used the rental unit for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice (except for demolition).

I note that as per RTB Policy Guideline 2b "Demolition means the complete and irreversible destruction of the rental unit. Usually, but not always, this involves the destruction of the building containing the rental unit. This may also involve partial demolition of a building so that the rental unit ceases to exist."

In this case, I find that the landlord had provided sufficient evidence to support that they had fulfilled their obligations to demolish the home after ending the tenancy pursuant to section 49(6)(a) of the *Act*. I accept that the demolition involved the partial demolition of the home, and that the original rental unit that was a 2 storey, 4 bedroom home, no longer exists. In its place is a 1 bedroom bungalow, which is so substantially different than the original rental unit that I am satisfied that the original home is considered demolished for the purposes of this application. I find that the evidence supports that the demolition process is not a quick one, and that the landlord did start and accomplish the demolition within a reasonable period after the tenants had moved out. Accordingly, I dismiss the tenants' application for compensation without leave to reapply.

As the tenants were unsuccessful with their application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application. The tenants must bear the cost of this filing fee.

**Conclusion**

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: May 10, 2023