



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNETC FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held on April 20, 2023. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 51.1 of the Act

The Landlord and the Tenants both attended the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenant's Notice of Dispute Resolution Proceeding and evidence package. The Tenant confirmed receipt of the Landlord's evidence package. No service issues were raised.

All parties were provided the 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.

### Issues to be Decided

- Are the Tenants entitled to compensation under section 51.1 of the Act?

### Background and Evidence

Both parties agree that monthly rent was \$1,550.00 per month. The tenancy was set to be a fixed term and started on June 1, 2019. The fixed term was set to end on June 30, 2020. However, the parties agreed to offer a 1 month extension to the fixed term, until July 31, 2020. The Tenants moved out at this time. The Tenancy Agreement was provided into evidence and shows the following term:

## 2. BEGINNING AND TERM OF THE AGREEMENT *(please fill in the dates and times in the spaces provided)*

This tenancy created by this agreement starts on: 

01	06	2019
day	month	year

- Check ☐ A) and continues on a month-to-month basis until ended in accordance with the Act.  
**A, B or C** ☐ B) and continues on another periodic basis, as specified below, until ended in accordance with the Act.  
☐ weekly ☐ bi-weekly ☐ other: 

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☒ C) and is for a fixed term ending on 

30	06	2020
day	month	year

### IF YOU CHOOSE C, CHECK AND COMPLETE D OR E

- Check ☐ D) At the end of this time, the tenancy will continue on a month-to-month basis, or another fixed length of time, unless the tenant gives notice to end tenancy at least one clear month before the end of the term.  
**D or E** ☒ E) At the end of this time, the tenancy is ended and **the tenant must vacate the rental unit.**  
**This requirement is only permitted in circumstances prescribed under section 13.1 of the Residential Tenancy Regulation, or if this is a sublease agreement as defined in the Act.**

Reason tenant must vacate (required): 

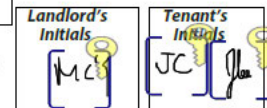
owner's family use
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Residential Tenancy Regulation section number (if applicable): 

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• If you choose E, both the landlord and tenant must initial here

The tenant must move out on or before the last day of the tenancy.



Both parties initialled the above noted term, pursuant to section 13.1.b of the Regulations. The Tenants confirmed that they were not served with a Notice to End Tenancy, pursuant to section 49 of the Act.

The Tenants are requesting 12 months' compensation, because they feel the Landlord failed to have her parents move into the rental unit, as was initially explained to the Tenants. The Tenants provided testimony explaining how they believe the Landlord was acting in bad faith.

The Landlord provided several reasons why neither she nor her parents moved into the basement suite.

The parties each provided numerous statements regarding the surrounding timelines and interactions. However, not all testimony has been summarized, if it is not relevant to my findings below.

### Analysis

The Tenants have applied for monetary compensation (12 months rent), pursuant to section 51(2) or 51.1 of the Act, because the Landlords ended their tenancy in “bad faith”, and failed to use it in accordance with the reason noted on the vacate clause of the tenancy agreement.

I have reviewed the testimony and evidence on this matter. I note that no Notice to End Tenancy was issued, and the Tenants vacated the property due to the vacate clause noted on their tenancy agreement.

As such, I find the Tenants are not eligible for compensation pursuant to section 51(2) of the Act, because this compensation is only triggered if a valid notice under section 49 has been issued.

With respect to the Tenants’ request for 12 months’ compensation pursuant to the vacate clause they signed on the tenancy agreement, I note the only relevant portion of the Act for this matter is section 51.1. However, I find it important to note that section 51.1 of the Act was not brought into force until July 11, 2022. I note this tenancy ended two years before the date section 51.1 was brought into force, and at the time the tenancy agreement was signed and also when the Tenants vacated the rental unit pursuant to the vacate clause, section 51.1 did not exist.

As such, for this tenancy, there was no provision under the Act for 12 months’ compensation, based on a fixed term vacate clause. Although section 51.1 has since been brought into force for similar situations, it is not retroactively applied to contracts entered into before the date that legislation existed. I find the Tenants are ineligible for the compensation they are seeking. I dismiss their application, in full, without leave.

### Conclusion

I dismiss the Tenants’ application in full, without leave.

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 8, 2023