



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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## **DECISION**

Dispute Code: MNDCT

### Introduction

The Tenant sought \$1,600 in compensation against their former Landlord (the “Respondent”) under the *Residential Tenancy Act* (the “Act”).

### Preliminary Issue: Service of Notice of Dispute Resolution Proceeding

The Tenant testified that they served a copy of the new Notice of Dispute Resolution Proceeding (issued by the Residential Tenancy Branch on March 20, 2023) on the Landlord by Canada Post registered mail. Along with the new Notice of Dispute Resolution Proceeding the Tenant also served an updated package containing an amended claim for compensation.

A copy of the Canada Post tracking information and receipt were in evidence. Canada Post’s online tracking information indicates that the mail was sent out for delivery to the Landlord’s address, but that the mail went unclaimed by the recipient. The mail was eventually returned to the Tenant. Based on this undisputed oral and documentary evidence it is my finding that the Landlord was served in accordance with the Act.

### Issue

Is the Tenant entitled to compensation?

### Evidence and Analysis

In reaching this decision, I have considered only the necessary and relevant evidence needed to resolve the issue of the dispute and to explain the decision.

The Tenant testified that they began a tenancy in February 2020. Monthly rent in the furnished rental unit was \$750.00. They paid a security deposit equal to half the month's rent. The Tenant testified that there were written tenancy agreements, but he did not have a copy and none were submitted into evidence. The Tenant further testified that when he began the tenancy it was his understanding that he would stay in the rental unit with some sense of permanence. He did not expect to be asked to leave during the high season.

It should be noted that the Landlord is advertised online as a resort. Where an individual rents travel or short-term accommodation from a resort, such an arrangement usually falls outside the jurisdiction of the Act, and instead falls under the *Hotel Keepers Act*. However, in the absence of any contradictory evidence from the Landlord, the Tenant's evidence establishes (on a balance of probabilities) that there was a tenancy (or three). In other words, the Landlord had legal obligations under the Act.

But the Tenant was "kicked out" once summer arrived at the end of June. He later returned to the property and rented out on another rental unit at \$950.00. And instead of renting a one-bedroom as earlier that year, he was now in a studio apartment. Once again, when summer of 2021 arrived, he was asked to leave to make room for high season guests. And he then returned in the fall of 2021, and this time paid \$1,200 in rent. Eventually, the Tenant vacated the property on May 25, 2022.

The Tenant testified that before he finally left in May 2022 the Landlord gave him a "90 day" written notice that the tenancy was ending. No previous formal notices to end the tenancy were ever given.

Despite paying an ever-increasing amount of rent for each time that the Tenant resided in the property, the Landlord appears to have never issued any proper notices to end the three tenancies. However, the Tenant, by agreeing to vacate, effectively ended the tenancies. The Landlord was, in fact, entitled to “increase the rent” on each of the three short tenancies because the rent from one tenancy has no bearing on a second or third separate tenancy.

For these reasons, I am not satisfied that the Landlord increased the rent in violation of the Act. The Tenant and the Landlord entered into three separate tenancies and the Landlord was at liberty to set the rent for each tenancy. The Tenant is not entitled to compensation for any increase in rent over the three tenancies.

As for the tenancies ending, in the absence of any proper notice to end the tenancy being give by the Landlord (for example, no One Month Notice to End Tenancy for Cause or Two Month Notice to End Tenancy for Landlord’s Use of Property), the Tenant could have mitigated any potential loss by simply staying in the rental unit. Rather, he chose to leave after the Landlord asked him to leave. In short, I am not satisfied that the Tenant did whatever was reasonable to mitigate his losses. For these reasons, I must respectfully dismiss the Tenant’s application for compensation.

### Conclusion

The application is dismissed, without leave to reapply.

Dated: June 30, 2023

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Residential Tenancy Branch