



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

Page: 1

## **DECISION**

Dispute Codes      MNEVC MNSD FFT

### Introduction

The Tenant seeks (1) the return of a security deposit, (2) compensation for breach of contract, and (3) recovery of the application fee, under sections 38, 51.1, and 72, respectively, of the *Residential Tenancy Act* (the “Act”).

### Preliminary Issue: Claim for Return of Security Deposit

It is noted that the Landlords have a pending application to be heard before a different arbitrator at a dispute resolution hearing on Thursday, June 15, 2023 (see Landlords’ file number as referenced on the cover page of this Decision). The Landlords’ application contains a claim to retain the Tenant’s security deposit as part of a larger claim for compensation.

The tenancy ended on March 1, 2023, and the Landlords made their application within the 15-day requirement as set out in section 38(1) of the Act. Because the retention of the security deposit depends upon the outcome of the Landlords’ application, I decline to make any decision or order in respect of the security deposit in this application.

### Issue

Is the Tenant entitled to compensation?

### Evidence and Analysis

In reaching this decision, I have only considered relevant and necessary oral and documentary evidence that helped resolve the issue of the dispute.

The tenancy began on November 19, 2022. The tenancy was a fixed-term tenancy that was supposed to end on May 19, 2023. However, the Landlords ended the tenancy on March 1, 2023. The Landlord (H.Y.) testified that they ended the tenancy because of the Tenant's failure to pay rent. There was, however, some documentary evidence that pointed to the tenancy being ended due to strata and municipal bylaw infractions. In any event, the fixed-term tenancy ended just shy of three months before May 19, 2023.

The Tenant (K.L.) testified that they seek compensation under the Act for an amount equal to twelve times the monthly rent. It is noted that the Tenant's application specifies a claim under section 51.1 of the Act. Section 51.1(1) of the Act should to be cited in full before the Tenant's application may be considered:

Subject to subsection (2) of this section, if a fixed term tenancy agreement includes, in a circumstance prescribed under section 97 (2) (a.1), a requirement that the tenant vacate the rental unit at the end of the term, the landlord must pay the tenant an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if

- (a) steps have not been taken, within a reasonable period after the date the tenancy ended, to satisfy the prescribed circumstance, or
- (b) the rental unit is not used in a way that satisfies the prescribed circumstance for at least the period of time prescribed under section 97 (2) (a.2), beginning within a reasonable period after the date the tenancy ended.

In considering the Tenant's testimony, argument, and submissions, the facts do not support a claim for compensation under this section of the Act. Certainly, while the tenancy agreement included a clause requiring the Tenant to vacate at the end of the fixed term so that the Landlords' son could occupy the rental unit, no evidence was provided that related in any way to this clause of the tenancy agreement.

It would, of course, be the Landlords' failure to abide by this term of the tenancy agreement that would give rise to a claim for compensation under section 51.1 of the Act. However, it is not a mere breach of the tenancy agreement that results in there being a claim for compensation equivalent to twelve times the monthly rent.

Taking into consideration all of the relevant oral and documentary evidence before me, it is my finding that the Tenant has not, on a balance of probabilities, proven that they are entitled to compensation under section 51.1 of the Act. The claim is dismissed.

The Tenant's claim to recover the application fee is also dismissed.

### Conclusion

The application is dismissed without leave to reapply, except for the claim for the return of the security deposit which is to be determined in a subsequent decision.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: June 13, 2023

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Residential Tenancy Branch