



# **Dispute Resolution Services**

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** MNDC

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant for the equivalent of two months rent under section 51(2). The tenant appeared but the landlord did not.

### **Issue(s) to be Decided**

The issue to be determined based on the testimony and the evidence is whether the landlord ended the tenancy for landlord's use and if so were steps taken by the landlord to accomplish the stated purpose given for ending the tenancy under section 49 within a reasonable period after the effective date of the notice?

The burden of proof is on the tenant in regards to proving that the landlord issued a Notice for the purpose alleged. The burden of proof is on the landlord to establish that the rental unit was utilized for the stated purpose.

### **Preliminary Matters**

Section 51(2) of the Act states that in addition to the amount payable under section 51(1), the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or the rental unit is not used for

that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice.

However, the tenant stated that the tenant was not successful in locating the landlord in order to serve the Notice of Hearing and evidence for these proceedings. The tenant requested an adjournment in order to search for the landlord's current address.

**Section 89** (1) of the Act states that an application for dispute resolution must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*]. (substitute service)

## **Conclusion**

Based on the above and the fact that the respondent was not properly served according to the Act, I find that the hearing cannot proceed. Accordingly, I hereby dismiss the tenant's application with leave to reapply once the landlord's current service address has been established.

Dated: December, 2008