

DECISION

Dispute Codes MNDC, FF

Introduction

This is an application filed by the Tenant for a monetary order seeking compensation pursuant to section 51 (2) (b) of the Residential Tenancy Act.

Both parties attended the hearing by conference call and gave testimony.

At the beginning of the hearing, the Landlord stated that she received the Tenant's notice of hearing package, but did not receive any of the Tenant's submitted evidence. The Tenant states that each package was sent by registered mail. The Tenant was unable to provide any evidence or confirmation that the evidence package was sent or received. Pursuant to Rule 11.5 of the Residential Tenancy Branch Rules of Procedure, the acceptance of the evidence would prejudice the other party. As such, the Tenant's evidence will not be considered in this hearing. The proceeding shall continue through direct testimony of both parties.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for compensation pursuant to section 51 of the Residential Tenancy Act?

Background and Evidence

The Tenant states that he was served with a 2 month notice to end tenancy for Landlord's use of the property. The Tenant states that the notice's reason is for the Landlord to occupy the unit themselves. The Tenant claims that the Landlord failed to occupy the rental unit for the stated reason and refers to Section 51 (2) (b) of the Residential Tenancy Act claiming for double the monthly rent of \$2,050.00 (\$1,050.00 monthly rent). The Landlord states that the rental unit was not habitable due to damage caused by the Tenant. The Landlord claims that the Tenant caused excessive damage to the property which resulted in her application to demolish the rental unit and rebuild a new building. The Landlord currently resides at the dispute address. The Tenant disputes the Landlord's claims.

Analysis

As both parties have attended the hearing, I am satisfied that the Landlord was properly served with the notice of hearing package.

I find based upon the direct evidence of both parties that the Tenant has failed to establish his claim. The responsibility lies on the applicant to prove their claim. The Tenant's application is dismissed.

Conclusion

The Tenant's application is dismissed.

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: July 26, 2011.

Residential Tenancy Branch