



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC

Introduction

This hearing was convened in response to an application by the tenant for a Monetary Order pursuant to Section 51(2) of the Residential Tenancy Act (the Act).

Both parties attended the hearing and each acknowledged receiving the evidence of the other. The burden of proof respecting their claim lies with the applicant.

Issue(s) to be Decided

Is the tenant entitled to compensation?

Background and Evidence

The applicant testified that *subsequent* to receiving a 2 Month Notice to End Tenancy for Landlord's Use of Property (the Notice) dated March 07, 2011, they disputed the Notice and they provided evidence that the Notice was cancelled and of no effect. The tenant claims that as a consequence and subsequent to this Notice, the landlord gave the tenant a new Notice, upon which they are basing their current application for compensation under Section 51(2). The landlord claims that a new Notice was not given, but that the parties came to a mutual resolution to end the tenancy. The tenant claims that a new Notice was indeed given.

Analysis

It must be noted that compensation, or any claim for compensation under the Act in respect to ending a tenancy for landlord's use of property is triggered by the issuance of a 2 Month Notice to End for Landlord's Use, containing the stated purpose for ending

the tenancy. In this matter, the parties are at odds as to the facts in this matter, and the tenant has the burden of proving their claim. The tenant has not met their onus to prove their claim. The tenant claims that they have the required evidence to support their claim. The landlord is not aware of such evidence. As a result, **I dismiss** the tenant's application, with leave to reapply. If the tenant can provide the required 2 Month Notice to End Tenancy for Landlord's Use of Property, issued subsequent to the Notice given dated March 7, 2011, then the tenant may have a basis upon which to make a claim for compensation under Section 51(2) of the Act.

Conclusion

I Order the tenant's application **is dismissed** with leave to reapply.

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 14, 2012.

Residential Tenancy Branch