



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, LRE, O

Introduction

The tenant applies to cancel a ten day Notice to End Tenancy, for more time to apply, for an order restriction the landlord's right of entry and for "other" relief seeking that a fine be imposed against the landlord under s. 95 of the *Residential Tenancy Act* (the "RTA").

By the time of hearing, the tenant had vacated the property. In such a circumstance the validity of the ten day Notice and the request for restricting the landlord's right of entry are "moot"; they are no longer of any consequence.

The tenant seeks a penalty under the *RTA*. Section 95 penalties are imposed after a person has been charged and convicted of an offence. That is not a proceeding an arbitrator either commences or takes part in. Section 94 of the *RTA* contemplates administrative penalties. Those penalties are instituted by the director under the *RTA*. Arbitrators delegated to conduct hearings do not at first instance initiate investigations leading to administrative penalties. Accordingly, the tenant has been referred to the Residential Tenancy Branch for better direction and assistance.

In result, the tenant's application must be dismissed.

It is to be noted for future reference that the prior to the ten day Notice in question, the landlord had issued a two month Notice to End Tenancy claiming to have sold the property. The validity of the ten day Notice may have relevance to the question of whether or not the tenant is entitled to receive compensation under s. 51 of the *RTA*. As the tenant has made no monetary claim for that money in this proceeding, I decline to address that issue now.

The tenant's application is therefore dismissed subject to her right to claim in a future proceeding that the ten day Notice was not a valid Notice to end the tenancy.

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: August 04, 2016

Residential Tenancy Branch