

Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

MNDC, OLC

Introduction

This hearing was scheduled in response to the tenants Application for Dispute Resolution, in which the tenants have made application for a monetary Order for damages and a request the landlord comply with the Act.

The tenant testified that the respondents were served on April 2, 2009 with Notice of this hearing by registered mail to the addresses contained on the Application for Dispute Resolution. The tenant provided affirmed testimony that he submitted registered mail receipts to the Service BC office on April 2, 2009 as evidence; however this evidence was not contained in the file. I do not deny that this evidence may have been submitted by the tenants; however the decision to dismiss this application with leave to reapply requires that the tenants again serve each respondent with Notice of the hearing.

Preliminary Matters

At the commencement of the hearing the tenant made a request for an adjournment. The tenant provided testimony that in the second week of April 2009 they made a request for affidavits from Canada Post; BC Utilities and the Financial Institute Commission and that these documents have yet to be made available to the tenants. The tenant states these affidavits are crucial to their application for dispute resolution.

In the absence of registered mail receipts I find that the request for adjournment is denied. However, I do find that the tenants have not intentionally failed to submit their evidence and that the tenant's request is not the result of any negligence on their part. I also find that the evidence the tenant's wish to obtain the affidavits is crucial to their application and will assist them in receiving a fair hearing.

The hearing commenced at 1:30 pm with the tenant present. The landlord did enter the conference call, but this occurred at 1:38 pm, by which time I had decided to dismiss this application with leave to reapply. The tenants must ensure that in any hearing set as a result of a new application related to this matter that the tenants are fully prepared to proceed.

Conclusion

This application for dispute resolution is dismissed with leave to reapply.

Dated May 07, 2009.

Dispute Resolution Officer