

INTERIM DECISION

I

Dispute Codes MNDC, OLC, RP and FF

Introduction

This hearing was convened on tenant tenant's application of December 22, 2011 for monetary compensation for repairs not completed in the rental unit, orders for the landlord to comply with the legislation and rental agreement and to do repairs, and to recover the filing fee for this proceeding.

At the commencement of the hearing, the landlord advised that he had not received the tenant's substantial evidence submission. I note that the copy submitted to the branch was date stamped on January 9, 2011 which would have been two days late. The tenant stated that she had served the landlord's copy by registered mail.

Section 90 of the *Act* prescribes that documents served by mail are deemed to be received five days later. As noted in the definitions section of the Rules of Procedure, time limits measured in days must not count the first and last days.

While item 3.5 of the Rules of Procedure requires that evidence must be served at least five days in advance, it will empower the Dispute Resolution Officer to accept it two days in advance if appropriate.

In the present matter, as the landlord did not have the tenant's late evidence, and as the late evidence was the only evidence submitted for the hearing, I initially stated that I would dismiss the application with leave to reapply.

However, on reflection, I find it more appropriate to adjourn this matter to a later date to give the landlord an opportunity to study the tenant's evidence and to prepare a response.

Therefore, the hearing will resume at a time and date set out in the Notice of Hearing sent with this decision.

The applicant tenant must be prepared to prove that the Notice of Hearing is served on the landlord prior to the hearing.

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: January 12, 2012.

Residential Tenancy Branch