



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, MNDC, FF, O

Introduction, Preliminary and Procedural Matters

This hearing was convened as the result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and unpaid rent, an order of possession for the rental unit due to unpaid rent, for recovery of the filing fee and other issues related to the Act.

The listed parties attended the hearing and at the commencement of the hearing, the landlord's agent was questioned about the lack of any documentary evidence filed with their application for dispute resolution.

The landlord's agent explained that the same parties were in a dispute resolution hearing on the parties' cross applications on November 18, 2013. In a Decision by another Arbitrator, the landlord's application was dismissed due to insufficient service of his hearing documents as required under section 89 of the Act. Additionally the tenant's application was withdrawn.

The landlord's agent further explained that when he attended the Residential Tenancy Branch ("RTB") office after the hearing, he asked if it was necessary to file any documentary evidence with this current application, and according to the landlord's agent, he was told by a RTB representative that the evidence he filed with the earlier application for dispute resolution would transfer to this hearing file.

This was not the case, as there was no evidence from either party contained in this hearing file.

Analysis and Conclusion

As I informed the landlord's agent, an applicant in each application is required to file any supporting evidence and documents with their application for dispute resolution, pursuant to sections 3.4-3.6 of the Dispute Resolution Rules of Procedure (Rules) and serve that evidence along with their application for dispute resolution to the respondent.

I further informed the landlord's agent that evidence does not transfer from file to file and that until being told of the last dispute resolution hearing, I was unaware that these parties had been in dispute resolution earlier.

The landlord's agent was informed that he was required to follow the Rules, despite any instructions or information provided at the RTB.

While I am not prepared to accept with any certainty that the landlord was misinformed at the RTB, out of an abundance of caution, I made the decision to dismiss the landlord's application, with leave to reapply.

I note that neither the tenant's advocate nor the tenant raised an objection to the dismissal.

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 10, 2014

Residential Tenancy Branch