



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST FRASER WARD STREET DEVELOPMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *OPC, CNC, MNDC, OLC, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession. The tenant applied to cancel the notice to end tenancy and for a monetary order for compensation for loss under the *Act*. Both parties applied for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenant stated that she served her evidence to the landlord along with the hearing package. The landlord stated that the hearing package did not contain any documents other than the notice of hearing and the tenant's application. Upon requesting additional information from the tenant, she provided contradictory testimony by initially stating that she had sent the package as received from the Residential Tenancy Branch Office to the landlord. Later the tenant added that she included her evidence in the package prior to mailing it to the landlord.

The landlord filed evidence to support her claim for an order of possession. However the landlord agreed that she did not serve the tenant with a copy of her evidence.

Analysis

Rule 3 of the *Residential Tenancy Branch Rules of Procedure* addresses how to serve the application and the applicant's evidence. Rule 3.1 (d) states that together with a copy of the application for dispute resolution, the applicant must serve each respondent with copies of any evidence accepted by the Residential Tenancy Branch with the application or that is available to be served.

The purpose of serving evidence to the respondent is to notify the person being served of matters relating to arbitration and provide the person with an opportunity for rebuttal.

Based on the testimony of both parties, I find that both parties were not served with copies of each other's evidence and therefore I am unable to use the evidence before me in the making of this decision.

Accordingly, I set aside the notice to end tenancy and the tenancy will continue. The tenant's application for a monetary order is dismissed with leave to reapply.

Both parties must bear the cost of filing their own applications.

Conclusion

The notice to end tenancy is set aside. 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: October 09, 2015

Residential Tenancy Branch

