



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*. The tenant applied for a monetary order for compensation for the lack of a safe living environment during her tenancy.

At the start of the hearing, the landlord stated that he had attempted to serve evidence to rebut the tenant's monetary claim but was unsuccessful in doing so, because the tenant no longer resided at the address she provided on her application for dispute resolution.

The tenant stated that she had filed the application on October 18, 2016 and moved out of Province in November 2016. The tenant failed to notify the landlord of her new address and therefore the landlord was unable to serve his evidence package on the tenant.

Analysis

Rule 11.5 (b) of the *Residential Tenancy Branch Rules of Procedure* addresses consideration of evidence not provided to the other party in advance of the dispute resolution proceeding.

Rule 11.5 (b) states that the Arbitrator may refuse to accept the evidence if the Arbitrator determines that the acceptance of the evidence would prejudice the other party or result in a breach of the principles of natural justice.

In this case, the respondent landlord attempted to serve evidence package on the tenant at the address provided by the applicant tenant in her application for dispute resolution. The landlord was unable to serve his evidence package because the tenant had moved and had not provided a mailing address update

The purpose of serving evidence to the other party is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal. Since the landlord intended to rely upon his evidence and was denied the opportunity for rebuttal, I have dismissed this application with leave to reapply.

Conclusion

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: April 21, 2017

Residential Tenancy Branch