



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNSD, FF

Introduction and Background

This hearing dealt with an application from the tenant for return of his security deposit and recovery of the filing fee for this application. The tenant appeared at the scheduled start time of the hearing which was 9:30 a.m. The landlord did not appear. When asked how he had served the application for dispute resolution and notice of hearing on the landlord, the tenant stated that he had not. Further, he described his understanding which is that it is the role of the residential tenancy branch to provide the required documentation to the respondent. In the result, the landlord did not appear at the hearing as the tenant did not serve the application for dispute resolution and notice of hearing package.

Analysis

Section 59 of the Act speaks to **Starting proceedings**. In particular, section 59(3) of the Act provides as follows:

59(3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

(4) The director may waive or reduce the fee if satisfied that

- (a) the applicant cannot reasonably afford to pay the fee, or
- (b) the circumstances do not warrant the fee being collected.

Based on the testimony of the tenant, I find that the landlord was not served with the application for dispute resolution and notice of hearing package. Accordingly, the application must be dismissed but with leave to reapply. The tenant has the option of making another application for dispute resolution and taking the steps necessary to properly serve the other party.

Conclusion

This application is hereby dismissed with leave to reapply.

DATE: April 24, 2009

Dispute Resolution Officer