



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for a monetary Order for return of the security deposit and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

At the start of the hearing it was determined that the Tenant has not applied for a monetary Order for the cost of emergency repairs or for compensation.

The Tenant provided affirmed testimony that she did not serve the Notice of Hearing and required documents until August 17, 2009. Service occurred via registered mail which is deemed served August 25, 2009. Residential Tenancy Branch Rules of Procedure require an applicant for dispute resolution to serve the respondent at least 5 business days prior to the hearing. In this case I find that the Landlord will not be deemed to have received the hearing package until August 25, 2009.

Section 59(3) of the Act requires an applicant to 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. The Tenant received the Notice of Dispute Resolution Hearing on May 14, 2009 and did not serve the required documents to the Landlord until less than 5 days prior to the hearing date.

These documents are not deemed to have been served in accordance with section 89 of the Act. Therefore, the Tenant's application for return of double the deposit paid 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: August 24, 2009.

Dispute Resolution Officer