



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

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.

The Tenant testified that the Notice of Hearing and evidence was immediately sent to the Landlord via registered mail. The Tenant could not provide the exact date that service occurred or the Canada Post tracking number that provides a record of service.

The Tenant testified that the hearing was originally scheduled for August 3, 2009 and was rescheduled for this date and that a copy of the Notice of Rescheduled Hearing was sent to each party by the Residential Tenancy Branch. The tenant was unable to provide evidence that the initial service of the Application for Dispute Resolution and tenant's evidence to the landlord was properly completed.

Residential Tenancy Branch Policy, Service Provisions states:

Proof of service by registered mail **should include the original receipt given by the post office and should include the date of service**, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service.

Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

(My emphasis)

The tenant was unable to provide the date that service was initiated and did not submit a copy of the registered mail receipt. The tenant was not able to testify to the registered mail receipt number. Therefore, I find that the Notice of Hearing served to the landlord by the tenant has not been served according to sections 59(6) and 89 of the Act.

The application for dispute resolution indicates that this tenancy was for a "south east room". No testimony was considered in relation to jurisdiction.

Conclusion

The tenant's application for dispute resolution is dismissed with leave to reapply.

Dated August 04, 2009.

Dispute Resolution Officer