



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, MNSD, CNL, AAT

Introduction

The hearing was convened to deal with the tenant's application seeking monetary compensation and the return of the security deposit by the landlord.

A representative of the landlord and a representative of the tenant both appeared.

Preliminary Matter

Shortly after the start of the hearing it was established through testimony from both parties that the tenant had failed to serve the landlord with the hearing documents as required under the Act.

Sections 88 and 89 of the Act determine the method of service for documents. The Tenant has applied for a Monetary Order under section 38 and 67 of the Act which requires that the landlord serve the tenant as set out under Section 89(1). This requires service in one of the following ways:

- (a) by leaving a copy with the person, (personal service);
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

In this case the tenant did not serve the documents in a manner not in compliance with the Act. Having found that the tenant has failed to prove adequate service of the Notice of Hearing and Application for Dispute Resolution I have determined that this application be dismissed with leave to reapply.

Conclusion

Based on the testimony and evidence presented during these proceedings, I make no findings on the merit of the application and find that the tenant's application cannot proceed because of inadequate service. Accordingly, I hereby dismiss the application 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: March 2011.

Residential Tenancy Branch