



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for dispute resolution under the Residential Tenancy Act (the "Act"), seeking to retain all or part of the tenant's security deposit, for a monetary order for unpaid rent and to recover the filing fee.

The landlord and his interpreter appeared and gave affirmed testimony.

When questioned, the landlord stated that the tenant was served the Application and Notice of the Hearing Package about a month ago. There was no further proof or testimony as to the specific date or method of delivery of the Notice of Hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary order, authority to retain the tenant's security deposit and for recovery of the filing fee?

Has the landlord submitted sufficient evidence to prove that the tenant was served the Notice of Hearing?

Background and Evidence

The landlord did not submit any documentary evidence and was unable to provide conclusive testimony that the tenant was served with the Notice of Hearing.

The landlord's interpreter suggested that the landlord was unaware that he was required to submit evidence, perhaps due to a language problem.

Analysis

The Act requires that a Notice of Hearing and application package must be served upon the respondent(s) in the manner set forth in section 89.

Without proof that the tenant was served with the Notice of Hearing and the landlord's application, I cannot proceed on the landlord's application.

Conclusion

Therefore, on a balance of probabilities and insufficient evidence by the landlord, I cannot find that the tenant was served with the Notice of Hearing and Application for Dispute Resolution as required by Section 89 of the Act and the hearing could not proceed.

I therefore dismiss the landlord's 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: May 31, 2012.

Residential Tenancy Branch