



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNSD Monetary Order for the Return of the Security Deposit

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant for an order for the return of the security deposit retained by the landlord.

Only the applicant tenant appeared.

Preliminary Issue

The hearing commenced as scheduled and only the applicant tenant appeared. At the outset of the hearing the tenant stated that the landlord was not served with the hearing package or the Notice of Hearing to attend these proceedings. The tenant testified that he believed that the documents would be served to the respondent by the Residential Tenancy Branch.

Section 59 of the Act states that an application for dispute resolution must be in the approved form, include full particulars of the dispute that are the subject of the dispute resolution proceedings. 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. (my emphasis)

Section 89 (1) of the Act states that an application for dispute resolution must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (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*]. (substitute service)

The burden of proof is on the applicant to prove that the respondent was properly served according to the Act.

Given that the tenant had failed to provide sufficient proof that the respondent was served in compliance with the Act, I found that the hearing could not proceed.

Accordingly, I hereby dismiss the tenant's application with leave to reapply.

Conclusion

The tenant's application was 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: November 07, 2012.

Residential Tenancy Branch