



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant, filed on October 1, 2012, in which the applicant was requesting a monetary order against the landlord for a refund of double the security deposit.

Only the applicant tenant appeared.

Preliminary Matter

The tenant testified that they served the landlord with the Notice of hearing by registered mail sent on October 1, 2012. No proof of service was submitted into evidence and the tenant was not able to provide the parcel tracking number from Canada Post.

Section 89 of the Act states that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, must be given to one party by another, 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;

In this instance, I find that the applicant tenant was not able to prove when and how the other party, who was not at the hearing, had been served.

The *NOTICE OF A DISPUTE RESOLUTION HEARING* sheet giving the date and time of the hearing along with the phone number and participant access code for the teleconference, also contains guidance under the heading "*GENERAL INFORMATION about your responsibility and the hearing*". This section of the document states, in part:

“Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions for evidence processing are included in this package. Deadlines are important”

Conclusion

Based on the above, I find that this matter cannot proceed because the tenant was not able to sufficiently prove that the landlord was properly served with the Notice of Hearing in accordance with the Act.

Therefore I dismiss the tenant’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: December 19, 2012.

Residential Tenancy Branch