



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 the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- authorization to obtain a return of double their pet damage and security deposits pursuant to section 38; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 11:10 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 11:00 a.m. The tenants attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

Background - Service of Application

The female tenant testified that she served the landlord with the dispute resolution package (including their application and the notice of hearing) by sending it by regular mail on October 9, 2012.

Analysis – Service of Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, 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 document]...

The tenants have not served the landlord in a manner required by section 89(1) of the *Act*. I am not satisfied that the landlord was properly served with the tenants' application for dispute resolution.

Conclusion

I dismiss the tenants' 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: January 03, 2013

Residential Tenancy Branch

