



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of her security deposit.

Issue(s) to be Decided

Is the Tenant entitled to the return of the security deposit?

Background and Evidence

The Tenant stated that she mailed the Application for Dispute Resolution and the Notice of Hearing to the Landlord, via registered mail, on August 21, 2013. The Tenant submitted Canada Post documentation that corroborates this testimony.

The Tenant stated that on August 31, 2013 Canada Post returned the Application for Dispute Resolution and the Notice of Hearing to her. On the Canada Post documentation submitted in evidence there is a note that the package is being returned to the sender because the recipient has moved.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to a landlord is to notify the landlord that a dispute resolution proceeding has been initiated and to give the landlord an opportunity to respond to the claims being made by the tenant. When a tenant files an Application for Dispute Resolution in which the tenant has applied for a monetary Order, the tenant has the burden of proving that the landlord was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1)(c) of the *Act* stipulates, in part, that a tenant may serve a landlord with an Application for Dispute Resolution by sending a copy by registered mail to the address at which the landlord resides or carries on business as a landlord. The evidence

suggests that the Landlord has moved from the address used to serve the Application for Dispute Resolution and the Notice of Hearing. I therefore cannot conclude that the Landlord was served with these documents in accordance with section 89(1)(c) of the *Act* and I find I cannot determine this matter in the absence of the Landlord.

Conclusion

The Tenant's Application for Dispute Resolution is 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 25, 2013

Residential Tenancy Branch

