



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant seeking the return of the tenant's security deposit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Preliminary Matter

At the outset of the hearing, the landlord testified that the tenant only served one of the two co-landlords and the content of the envelope was one page, the Notice of Hearing. The landlord testified that there was no copy of the tenant's application in the envelope and the landlord had no information what the tenant was claiming.

The landlord testified that the tenant had never given them the forwarding address and they therefore could not send evidence, nor could they submit a cross application seeking to retain the tenant's security deposit for damages.

Sections 88 and 89 of the Act determine the method of service for documents. The tenant has applied for a Monetary Order which requires that the respondent be served as set out under Section 89(1).

This requires service in one of the following ways:

- (a) by leaving a copy with the person, (personal service);
- (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 they carry 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*].

In this instance the landlord was given an envelope in person at her place of employment simply containing the Notice of Hearing.

However, the Residential Tenancy Rules of Procedure, Rule 3.1, states that the applicant must serve each respondent with a **copy of the Application for Dispute Resolution**, along with copies of all of the following:

- a) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- b) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- c) the details of any monetary claim being made, and
- d) any other evidence accepted by the Residential Tenancy Branch with the application or that is available to be served.

In this case I find that the tenant had only served the one-page Notice of Hearing and nothing else, as confirmed by the Affidavit of Service submitted into evidence by the tenant's counsel. Given the above, I find that the applicant has not sufficiently proven that the respondent was served with all of the required documents in compliance with the Residential Tenancy Rules of Procedure, Rule 3.1.

Having found that the tenant has failed to prove adequate service of the documents that must accompany the Notice of Hearing, I find that this application cannot proceed and must be dismissed. I hereby dismiss the application with leave to reapply.

Both parties provided their service addresses during the hearing for the benefit of the other and file records have been changed to reflect the correct addresses for service.

Conclusion

The tenant is not successful in the application due to failure to serve the required documents and the application 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: April 14, 2014

Residential Tenancy Branch

