



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for: a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement; to keep the Tenant’s security and pet damage deposit; and, to recover the filing fee from the Tenant for the cost of the Application.

Both parties appeared for the hearing and provided affirmed testimony. The Landlord had made his Application on September 15, 2014 and on the same date he was provided with a copy of his Application and the Notice of Hearing documents to serve to the Tenant. However, the Landlord testified that he served the Tenant on March 26, 2015 by registered mail with a copy of: the Application; the Notice of Hearing documents; the Monetary Order Worksheet; and, a copy of his 64 pages of documentary evidence and 45 photographs.

The Tenant explained that she had not received the Landlord’s documents until March 30, 2015, three days before the date of this hearing and that this was not sufficient time for her to consider the Landlord’s case against her. The Tenant did not consent to hearing the Landlord’s claim during the hearing.

The Landlord was informed of the service provisions of the Act and the Rules of Procedure and the Landlord explained that he was not aware of these.

Analysis & Conclusion

Section 59(3) of the Act provides that an Applicant making an Application must serve a copy of it along with the Notice of Hearing documents to the Respondent within three days of receiving the paperwork from the Residential Tenancy Branch.

Rule 3.15 of the Residential Tenancy Branch Rules of Procedure require an Applicant to ensure that documentary evidence being relied upon at a hearing must be received by

the Residential Tenancy Branch and the Respondent not less than 14 days before the hearing.

This service provision of the above documents is detailed within Fact Sheet 114 on the dispute resolution process which was provided to the Landlord at the time he made his Application. I also note that the Landlord had submitted this Fact Sheet as part of his documentary submissions.

Therefore, I find the Landlord has failed to serve the Tenant with the required documents as required by the Act and the Rules of Procedure that would have given a fair opportunity for the Tenant to respond. Therefore, I was unable to hear the Landlord's Application. As I did not hear any evidence in relation to the Landlord's monetary claim, I dismiss the Landlord's Application but provide **leave to re-apply**.

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 02, 2015

Residential Tenancy Branch