



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD; FF

Introduction

This is the Tenant's application for return of the security deposit and to recover the cost of the filing fee from the Landlord.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that he sent the Notice of Hearing documents to the Landlord at the address provided on the tenancy agreement, by registered mail. He was not certain of the date and did not have the registered mail receipt so was unable to provide the tracking number. The Tenant stated that he also sent copies of the Notice of hearing documents to the Landlord via e-mail on January 11, 2015. The Tenant provided copies of e-mails between the parties, however, they were faxed and the copies were illegible. I told the Tenant that we would wait for the Landlord to sign into the Hearing, and that if he did not, I would allow the Tenant to provide me with legible copies of the e-mails within 10 days. I explained that if the e-mails confirmed what the Tenant said to be true, and there was evidence that the Landlord received the e-mails, then I would consider his testimony and render a Decision. Otherwise, I would dismiss his Application with leave to reapply.

The teleconference remained open for 30 minutes, but the Landlord did not sign into the conference.

On June 2, 2015, the Tenant provided the Residential Tenancy Branch with large, legible copies of the e-mails that he initially provided in evidence. One of the e-mails, dated January 11, 2015, indicates that the Tenant provided the Landlord with the Notice of Hearing documents by mail in October, 2014. It also shows the attachments to the e-mails, which are the Notice of a Dispute Resolution Hearing Form and the Landlord and Tenant Fact sheet. In this e-mail, the Tenant also states that the last email he received from the Landlord was on November 13, 2014.

The other e-mails are communications between the Tenant and the Landlord with respect to return of the security deposit. These other e-mails date between September 16, 2014 and November 13, 2014. There are 2 e-mails dated November 13, 2014. The first is from the Tenant to the Landlord advising that the Dispute Resolution Hearing would be going ahead because the Tenant had not received the security deposit back. The second e-mail is from the Landlord to the Tenant advising that the Landlord mailed the cheque "via Canada post weeks ago".

I find that there is insufficient evidence that the Landlord received the e-mail sent on January 11, 2015, which included some of the Notice of Hearing documents. The Tenant did not provide sufficient evidence that he provided a copy of his Application in the e-mail (just the Notice of Hearing and Fact Sheet). The Landlord did not reply to the e-mail of January 11, 2015. The Tenant was not able to provide sufficient proof of service of the Notice of Hearing documents upon the Landlord via registered mail because he had lost the receipt with the tracking number.

For the reasons set out above, I dismiss the Tenant's application with leave to reapply. This does not extend any existing time limits that may apply under the Act.

Conclusion

The Tenant's 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: June 10, 2015

Residential Tenancy Branch

