



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was in respect of the tenants' application pursuant to the *Residential Tenancy Act* (the Act) for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenant TO (the tenant) appeared. The tenant confirmed he had authority to act on behalf of the tenant ED. Neither landlord appeared.

Preliminary Issue - Service

The tenant initially testified that he served the dispute resolution package in September 2014. This is impossible given that the Notice of a Dispute Resolution Hearing was not created until 16 December 2014. I brought this to the tenant's attention.

The tenant then testified that the dispute resolution package was served on 19 December 2014. I asked the tenant if he could provide a tracking number. The tenant stated that he was not able to provide one at that time. I provided the tenant with some time to contact the tenant ED to see if she could locate a tracking number. Neither tenant was able to find a tracking number.

Rule 3.5 of the *Residential Tenancy Branch Rules of Procedure* sets out that the applicant in a hearing must be prepared to demonstrate to the satisfaction of the Arbitrator that each respondent was served with the hearing package and all evidence, as required by the Act.

As the tenant was uncertain as to the date the documents were served and the tenant was unable to provide me with a tracking number that would prove service, I find that the tenants have failed to establish that they have served the landlords in accordance with the Act.

The tenants' claim is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable time limit.

The tenants may wish to review the following documents and provisions:

- Act, sections 38, 39, 89, and 90; and
- Policy Guidelines, 17 and 29.

Conclusion

The tenants' 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 subsection 9.1(1) of the Act.

Dated: July 21, 2015

Residential Tenancy Branch

