



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for the return of all or part of the security deposit or pet damage deposit, and to recover the cost of the filing fee.

The tenant attended the hearing. The landlord did not attend the hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") and Application for Dispute Resolution (the "Application") were considered. The tenant testified that the Notice of Hearing and Application were not served on the landlord. The tenant was under the assumption that the other party was served by the Residential Tenancy Branch.

Section 3.1 of the Residential Tenancy Branch (the "RTB") Rules of Procedure sets out that the applicant, within 3 days of the hearing package being made available by the RTB, serve each respondent with copies of the Notice of Hearing package and Application. In other words, the tenant's assumption was false as the applicant is required to serve the respondent.

Based on the tenant confirming under oath that he did not serve the respondent landlord, I am not satisfied that the landlord has been served in accordance with the *Act*. Both parties have the right to a fair hearing. The landlord would not be aware of the hearing and the reason for the hearing without having received the Notice of Hearing and Application. Therefore, **I dismiss** the tenant's application **with leave to reapply** as the landlord has not been served with the Notice of Hearing or Application. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 9, 2015

Residential Tenancy Branch

