



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 the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for authorization to obtain a return of all or a portion of her security deposit pursuant to section 38.

The landlord did not attend this hearing. The tenant/applicant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The tenant was uncertain with respect to many of the details of this matter, including the date of service of any documents for this hearing to the landlord. The tenant provided no documentary evidence that could assist her recall with respect to the length of this tenancy or the service of the documents to notify the landlord of this application and hearing.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. Beyond proper service, it is also essential that a party be able to prove that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent, in this case the landlord does not appear at a Dispute Resolution hearing, the applicant (tenant) must be prepared to prove service under oath. While the tenant testified that she personally served the Application for Dispute Resolution package to the landlord at his office, she was unable to identify some details that she should provide including the date and time of service, the location of the service, and any other details to assist in the arbitrator in determining whether the hearing documents had been sufficiently served.

Prior to considering the details of the applicant's claim, the arbitrator must be satisfied that the tenant/applicant sufficient served the other party, allowing that party an opportunity to knows the case against them and attend the dispute resolution hearing.

Given her extensive lack of detail in providing evidence with respect to service, I find that the tenant was unable to prove, on a balance of probabilities that the landlord was served with the dispute resolution documents and was aware of this dispute resolution hearing.

Conclusion

I dismiss the tenant's application 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: December 02, 2015

Residential Tenancy Branch

