



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNSD, OLC

Introduction

The Application for Dispute Resolution filed by the tenant seeks the following:

- a. A monetary order in the sum of \$3667.20
- b. An order for the return of the tenant's security deposit.
- c. An order that the landlord comply with the Act, regulations and/or tenancy agreement.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I tenant served the Application for Dispute Resolution by mailing, by registered mail to where the landlord resides on November 23, 2015. The landlord received the Application on November 26, 2015. The agent for the landlord submits they need more time to prepare.

Preliminary Issue:

After hearing the submissions from both parties I determined that it was appropriate to dismiss the tenant's Application with liberty to re-apply for the following reasons:

- a. The Application for Dispute Resolution was filed on October 13, 2015. However, the tenant failed to serve it until she mailed it on November 23, 2015. Section 53(3) of the Act provides as follow: "a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director." The Act permits an arbitrator to extend the time in exceptional circumstances. The tenant failed to establish exceptional circumstances.

- b. The Application for Dispute Resolution failed to set out precisely what claims the tenant is making as required by the Rules of Procedure.
- c. The tenant failed to file a monetary order worksheet as required by the Rules of Procedure.
- d. The tenant acknowledged that a portion of her claim relating to the security deposit should be deleted. She attempted to do so but the computers at the Residential Tenancy Branch office were not working and they were not able to assist the tenant to amend her claim.
- e. The representative of the landlord stated that given the delay in service they needed more time to prepare.

One of the fundamental principles of our legal system is that the other side must be given sufficient notice of the claims being made and an adequate opportunity to prepare so that they can respond to the claims. The tenant failed to follow the Act in the timing of the service of the Application for Dispute Resolution and the Application for Dispute Resolution fails to sufficiently identify the tenant's claims. As a result I ordered that the application be dismissed with liberty to re-apply. Liberty to reapply is not an extension of any applicable limitation period. I have not made any determinations on the merits.

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 09, 2015

Residential Tenancy Branch

