



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 convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for the return of his security deposit and to recover the filing fee from the Landlords.

The Tenant appeared for the hearing and provided affirmed testimony and documentary evidence prior to the hearing. There was no appearance for the Landlords during the 11 minute duration of the hearing. Therefore, I turned my mind to the service of documents to the Landlords for this hearing.

The Tenant explained that he had served a copy of the Application and the Notice of Hearing documents to the Landlords by registered mail on September 5, 2015. The Tenant testified that these were sent to an address which he was informed by his neighbour the Landlords resided at and the Tenant had seen the Landlords’ vehicle parked at the address. I noted that the tenancy agreement for this tenancy did not provide for a service address for the Landlords. The Tenant explained that the registered mail documents had been returned back to him and acknowledged that the address he had sent the documents to could not be verified.

When an applicant makes an Application, they must be able to prove that the respondent has been satisfactorily served and put on notice of the applicant’s claim against them. In this case, based on the evidence before me, I am not satisfied that the Tenant has served the Landlords with notice of this hearing as the documents for this hearing were sent to an address which cannot be verified. Therefore, I am unable to progress the Tenant’s Application and make any legal findings on it. As a result, I dismiss the Tenant’s Application but provide leave to re-apply.

Furthermore, the Tenant also confirmed that he was unable to provide the Landlords with his forwarding address due to the same reasons above. Section 38 of the *Residential Tenancy Act* (the “Act”) requires a tenant to put a landlord on notice of a forwarding address, and then allow for 15 days before an Application can be made to

claim the return of a security or pet damage deposit. Section 39 of the Act stipulates that a tenant has up to one year to provide a landlord with a forwarding address in writing. The Tenant should comply with this requirement before considering whether to make a new Application.

Conclusion

As I am not satisfied that the Tenant has served the Landlords with notice of this hearing, I dismiss the Tenant's Application **with** leave to re-apply.

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: March 08, 2016

Residential Tenancy Branch