



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* ("Act"), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- a monetary order for the return of double the amount of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 8 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified the landlord was served with the tenant's application for dispute resolution hearing package by way of registered mail. The tenant stated that she did not know the date or have the tracking number for this service.

As per section 59(3) of the *Act*, the tenant is required to serve her application upon the landlord within three days of making it. During the hearing, the tenant could not confirm a date or tracking number for the registered mail service, as required by section 89 of the *Act* and *Residential Tenancy Policy Guideline 12*. Therefore, I find that the landlord was not served with the tenant's Application as required under the *Act*.

At the hearing, I advised the tenant that her application to recover the \$100.00 filing fee was dismissed without leave to reapply and the remainder of her Application was dismissed with leave to reapply. I notified the tenant that she could file a new application for dispute resolution and pay a new filing fee if she wished to pursue this matter further.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant's 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 24, 2016

Residential Tenancy Branch