



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, 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 money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 9 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 thought the landlord was served two days after she received the application back from the Residential Tenancy Branch but she did not have the Canada Post receipt or tracking number for this service. The tenant was given some time during the hearing to look through her documents in order to find the receipt.

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 and 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.

I notified the tenant that she would be required to prove service at the next hearing, including the date, method and proof of service, particularly a tracking number if sent by registered mail which requires a signature. I also notified the tenant that she would have to prove the current address for service of the landlord at the next hearing, as she was unsure as to where the landlord lives at this time, since the rental unit was sold. I notified the tenant that she could apply for a substituted service order under section 71 of the *Act*, if required, after making attempts to serve the landlord under section 89 of the *Act*.

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: November 14, 2016

Residential Tenancy Branch