



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, OLC*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for the return of the security deposit and for an order directing the landlord to comply with the *Act*.

The tenant stated that the notice of hearing was served on the landlord by handing over the package to the receptionist at the place of employment of the landlord's manager. The tenant did not provide any documentary evidence as proof of service. The landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Was the landlord properly served with the notice of hearing and the tenant's application? If so is the tenant entitled to a monetary order?

Analysis

Section 89 (1) of the *Residential Tenancy Act* entitled "How to Give or Serve Documents".

Section 89(1) states

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;

- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The purpose of serving a notice of hearing under the Legislation is to notify the person being served of matters relating to arbitration. The landlord is entitled to have an opportunity to be heard at the hearing. Based on the testimony of the tenant, I am not satisfied that the notice of hearing was served in accordance with section 88 of the *Act*.

Conclusion

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: March 30, 2017

Residential Tenancy Branch