



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNSD

Introduction

This hearing was scheduled to hear the landlord's application pursuant to the *Residential Tenancy Act* (the "*Act*") for:

- an order to retain all or a part of the security deposit pursuant to section 38 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord and his agent attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord explained that a copy of the application for dispute resolution hearing along with his evidentiary package was sent by regular mail to the tenant on January 5, 2017. In addition, the landlord stated that a text message was sent to the tenant on January 3, 2017 informing the tenant of the hearing.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution...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 document]...*

The landlord has not served the tenant in a manner permitted by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the landlord's application for dispute resolution.

Conclusion

I dismiss the landlord's application 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: June 26, 2017

Residential Tenancy Branch