



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 1:50 p.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 1:30 p.m.

Preliminary Issue: Service of Tenant's Application

The tenant testified a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the landlord by Registered Mail after the application was filed. The tenant provided a registered mail tracking number which was turned out to be for the forwarding address provided to the landlord on April 10, 2017. The tenant's application was not filed until May 31, 2017. The tenant was not able to provide a Registered Mail receipt or a tracking number during the hearing in support of service of this Application.

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]...*

As the tenant was not able to provide a mail receipt or a tracking number, I am not satisfied the landlord has been served with the tenant's application for dispute resolution by registered mail at an address at which he resides or carries on business or in any other manner required by section 89(1) of the *Act*.

Conclusion

I dismiss the tenant'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: November 07, 2017

Residential Tenancy Branch