



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD OLC FF

Introduction

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

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

While the tenant AB attended the hearing by way of conference call, the landlords did not. I waited until 2:10 p.m. to enable the landlords to participate in this scheduled hearing for 2:00 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of the Application for Dispute Resolution

The tenant AB testified during the hearing that he served the landlords the tenants' application for dispute resolution by way of registered mail, but did not provide a tracking number, receipts, or sufficient evidence to support that the landlords were served in accordance with Section 89(1) of the *Act*.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order.

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;...*

As there is no way to confirm that the landlords were served in a manner required by section 89(1) of the *Act*, I cannot consider the tenants' application. I am not satisfied that the landlords were properly served with any portion of the tenant's application for dispute resolution.

As the tenants' application has not been served to the landlords in a method required under section 89(1) of the *Act*, I dismiss the tenants' application with leave to reapply.

Conclusion

I dismiss the tenants' 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: December 21, 2017

Residential Tenancy Branch