



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, FF

Introduction

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

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

This hearing dealt with an application by the tenant for a monetary order for return of the security deposit and pet deposit paid to the landlord and for the return of the filing fee for the Application, under the Residential Tenancy Act (the "Act").

Only the tenant appeared at the hearing. The tenant provided affirmed testimony and was provided the opportunity to present evidence orally and to make submissions to me. The tenant did not submit any documentary evidence for this hearing.

The tenant testified that he notified the landlord of this hearing by e-mail and text message. The tenant testified that he didn't have the landlord's address and didn't know how to serve the Branch or the landlord with any evidence.

Analysis

The tenant advised that he served the Notice of Hearing documents by email and text message. Section 89 of the Act addresses the service of certain documents such as the Notice of Hearing Documents and Application as follows:

Special rules for certain documents

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*].

In the tenants own testimony he acknowledged that he did not serve the Notice of Hearing Letter or the Application by any of the above approved methods. The tenant has failed to satisfy me that they served the landlord in accordance with section 89 of the Act, accordingly; I dismiss the tenants' application with leave to reapply. The tenant was advised that his application was going to be dismissed with leave to reapply. It was explained in great detail to the tenant as to why he was unsuccessful. The tenant became angry and stated "I don't like how you're handling this, it's not okay, I want to make a complaint".

The tenant then demanded the matter be reviewed immediately by a supervisor and have one join us in the teleconference. It was explained to the tenant that it was not logistically possible at that moment, but I provided the information to him and the process on how he could do that if he so chose. The tenant responded "there's nothing more I could do, you can't let this landlord get away with this again, he screwed me over, and he must have done this many times before. You can't let him get away with this". It was again explained to the tenant that he is entitled to reapply. Despite my attempts to explain the hearing process and the requirements of the service provisions under the Act, the tenant became more upset and started yelling more and demanding

that his application be granted in full. The tenant stated that he should get his total claim and that is the only outcome he was seeking.

Analysis

The tenant's application is dismissed with leave to reapply for failing to provide sufficient evidence that that landlord was served the Notice of Hearing Letter and Application in accordance with section 89 of the Act. Leave to reapply is not an extension of any limitation period.

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 28, 2018

Residential Tenancy Branch