



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC MNSD

Introduction

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

- a monetary award for damages and loss pursuant to section 67;
- a return of all or part of the security deposit for this tenancy pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant attended this hearing which lasted approximately 15 minutes. The landlord did not attend the hearing. While the tenant said that she was not a native English speaker and had some difficulty with certain phrases, she was able to answer questions and comprehend what was told to her. The tenant was given a full opportunity to make submissions, present evidence and call witnesses.

The tenant said that she filed her application for dispute resolution on September 15, 2017 but had not served a copy on the landlord.

Section 89(1) 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]...*

Residential Tenancy Policy Guideline 12 further provides that:

Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package...

An application for dispute resolution must be served on the other party. The tenant stated that she has not given the landlord the application for dispute resolution. Therefore, I find that the application was not served on the landlord as required under the *Act*.

Accordingly, 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: April 10, 2018

Residential Tenancy Branch