



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT MNSD FFT

This hearing was scheduled to address the tenants' application pursuant to the *Residential Tenancy Act* ("the Act") for: a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; authorization to obtain a return of their security deposit pursuant to section 38; and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord/respondents did not attend this hearing, although the teleconference remained open until 1:41 p.m. in order to enable the landlord/respondents to connect with this teleconference hearing scheduled for 1:30 p.m. Both of the tenants/applicants attended the hearing. The tenant/applicants were given a full opportunity to be heard and to present testimony regarding the service of their Application for Dispute Resolution ("ADR") and evidence.

The tenants both testified that they were not aware that they were required to serve the landlords with their ADR: they believed that the Residential Tenancy Branch would serve the application on their behalf to the landlords. Residential Tenancy Policy Guideline No. 12 and the Dispute Resolution Rules of Procedure explain the requirements of service pursuant to section 88, 89 and 90 of the Act. A link to the Rules of Procedure is included in the tenants' Notice of Hearing and the requirements for service are provided in an attached email.

There are only three ways in which an applicant (in this case the tenant) must serve a respondent (the landlords) with their application for dispute resolution by:

- Personal service (physically handing a copy of the document to the person being served);
- Registered Mail (by Canada Post with confirmation of delivery available); or
- A Residential Tenancy Branch Order Regarding Service.

The Policy Guideline states that, “Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.”

I find that the tenants provided insufficient evidence to show that the landlords were sufficiently served with her application for dispute resolution and their evidence to support their application. To ensure procedural fairness and provide the respondent(s) with an opportunity to respond, it is essential that the respondent(s) be aware of an application against them and the details of that application. It is also essential that the respondent be aware of the hearing date and time. The tenants have not served the landlord/respondents with their Application for Dispute Resolution or evidence for this hearing. The tenants have not met the requirements of service under the Act. Therefore, I dismiss the tenants’ application with leave to reapply.

Conclusion

I dismiss the tenants’ application with leave to reapply. Leave to reapply does not change or affect timelines for an application.

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: May 03, 2018

Residential Tenancy Branch