



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC FF

Introduction

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

- a return of their security deposit pursuant to section 38 of the *Act*;
- recovery of the filing fee from the landlord pursuant to section 72 of the *Act*; and
- a Monetary Order as compensation for loss under the *Act* pursuant to section 67;

The landlord, along with Tenant S.K. attended the hearing by way of teleconference.

Following opening remarks, the landlord said that he did not know why he was scheduled to attend the hearing and explained that he had only been made aware of the hearing after having received an email from the tenants regarding a hearing scheduled for today. The landlord said that he called the *Residential Tenancy Branch* and was informed by an Information Officer of the time and dial-in information associated with this hearing.

Tenant S.K. acknowledged that he had emailed the landlord notice of this hearing and said that he was unaware that the application for dispute and evidentiary packages had to be served to the landlord in a manner allowable under the *Act*.

Analysis

Tenant S.K. could not accurately explain how he had served the landlord with the tenants' application for dispute resolution and evidentiary package, other than to note that he had sent the landlord an email with notice of the hearing.

Section 89 of the Act establishes the following 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;*

Section 88 of the Act establishing the following rules for service of evidence which a person intends to rely on at a hearing.

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;*
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;*
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;*
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;*
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;*

In a dispute resolution, it is imperative that a person knows the case which is to be presented against them, and that they are given a chance to review the evidence on which an applicant intends to rely. I find that the tenants have not served the landlord with the evidence for this hearing or with notice of this hearing in a manner required by sections 88 & 89 of the *Act*.

As the tenants were unsuccessful in their application, they must bear the cost of their own filing fee.

Conclusion

The tenants' application for a return of their security deposit and for a monetary award is dismissed 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: May 23, 2018

Residential Tenancy Branch