



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

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

- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing. S.M. who is named as the landlord in this application submits that she is not the landlord and was only assisting the language due to a language barrier. S.M. submits that she did not have formal authorization to act on behalf of the landlord for this hearing. S.M. also submits that the landlord has not been notified of this application and that she was only notified of the hearing by way of an e-mail notification from the tenancy branch a couple weeks ago.

Preliminary Issue: Service of Tenant's Application

The tenant's confirmed that they only notified S.M. of the application and Notice of Hearing by e-mail on November 12, 2017.

Section 89 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]...*

I am not satisfied the landlord has been served with the tenant's application for dispute resolution in a manner required by section 89(1) of the *Act*.

Conclusion

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: June 12, 2018

Residential Tenancy Branch