



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL MNDL MNRL-S

Introduction

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

- and a monetary order for money owed or compensation monetary loss or money owed under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

While the landlord and his agent, LW, attended the hearing by way of conference call, the tenants did not. I waited until 2:10 p.m. to enable the tenants to participate in this scheduled hearing for 2:00 p.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing the landlord's agent requested the landlord's address be amended as there was a typographical error in his application. I find the request to be reasonable, and I granted the landlord's request to amend the landlord's address.

Preliminary Issue - Service of Documents

The landlord's agent testified during the hearing that only one of the tenants, DD, was served by way of personal service by the landlord at DD's place of work. The landlord's agent testified that they had no witnesses to confirm the service.

Section 89(1) of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order.

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;...*

At the hearing, I advised the landlord and his agent of my finding that as the tenants were not in attendance to confirm that they were served with the landlord's application and evidence, and as the landlord had not provided sufficient proof of service to support that the tenants were served in a manner required by section 89(1) of the *Act*, I cannot consider the landlord's application for a Monetary Order. I am not satisfied that the tenants were properly served with any portion of the landlord's application for dispute resolution.

As I am unable to find that this application for a Monetary Order has been served to the tenants in a method required under section 89(1) of the *Act*, I dismiss the landlord's application for a Monetary Order with leave to reapply.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of this case, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application. The landlord must bear the cost of this filing fee.

Conclusion

I dismiss the landlord's application for monetary compensation or loss with leave to reapply.

The landlord's application to recover the filing fee is dismissed without 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 14, 2018

Residential Tenancy Branch