



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened in response to an application from the tenant pursuant to the *Residential Tenancy Act* (“*Act*”) for:

- a monetary order pursuant to section 67 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the tenant appeared at the hearing. The tenant explained that the Notice of Hearing and Application for Dispute Resolution were not served in on the landlord. She stated that had sent the documents via registered mail and they were returned to her.

The tenant gave affirmed evidence that the Notice of Hearing and the Application for Dispute Resolution including the supporting evidence were not served in on the landlord. She stated that sent the documents via registered mail and they were returned to her undelivered. She was unable to say why the documents had not been delivered. No documents relating to the purported service attempt were filed in evidence and, no further details were given by the tenant during her oral evidence.

Issue(s) to be Decided

Is the tenant entitled to:

- a monetary order pursuant to section 67 of the *Act*; and
- return of the filing fee pursuant to section 72 of the *Act*.

Analysis

Sections 88 and 89 of the *Act* confirm that there are prescribed methods for the service of different types of documents, including various forms such as the Notice of Hearing, the documentary evidence in support and, the Dispute Resolution Proceeding package.

Section 59 (3) of the *Act* requires every applicant to give a copy of their application to the other party within 3 days of making it. Here the application was filed with the Residential Tenancy Branch on May 7, 2018.

Rule 3.5 of the Rules of Procedure provides that at the hearing, the applicant must demonstrate to the satisfaction of the arbitrator that each respondent was served with the relevant documents including the Dispute Resolution Proceeding package and all evidence as required by the *Act* and the Rules.

Here the tenant has not met the onus to prove the service of the Notice of Hearing and the Dispute Resolution Proceeding package on the landlord.

Conclusion

As the Notice of Hearing and Application for Dispute Resolution Proceeding package were not served on the landlord, I hereby dismiss the tenant's application, with leave to re-apply. I make no finding of fact with respect to the issues noted above.

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 18, 2018

Residential Tenancy Branch