



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenant requesting monetary order of \$200.00 she claims was paid to file the dispute applications and \$1,500.00 representing double the security deposit that she had paid to the Landlord.

The Tenant and Landlord appeared for the scheduled hearing. The Tenant was also represented by an advocate at the hearing. The hearing process was explained and parties were given an opportunity to ask any questions about the process.

The Tenant filed this Application on December 20, 2017, but uploaded all of her documentary evidence with the Residential Tenancy Branch (RTB) on July 10, the date of the hearing. Section 3.11 of the RTB Rules of Procedure states that evidence must be served and submitted as soon as reasonably possible and that if an Arbitrator finds that there was an unreasonable delay, he or she may refuse to consider the evidence.

Furthermore, section 3.14 states that if evidence cannot be submitted at the time of the application, then it must be received by the respondent and RTB no later than 14 days prior to the date of the hearing. The reason for these timelines is to provide the Landlord with opportunity to review the evidence submitted for the claim, and to file any reply at least 7 days prior to the hearing.

The Landlord also asked to address the preliminary issue of service. The Landlord requests that the hearing be dismissed because he only heard about the hearing date when he was sent an email reminder from the Residential Tenancy Branch with the call-in telephone numbers, a few days ago. He did not receive the Notice of Hearing, nor evidence package that the Tenant uploaded to RTB.

The Tenant states that she was unaware of the requirement to serve the Landlord with the Notice of Hearing and her evidence package. She asks that the hearing be adjourned to a later date so that she can serve him with the documentation. It is noted that this Tenant had previously filed an application with the RTB for the same claim (file number is noted on the coversheet of this decision), and that neither party attended that hearing which had been scheduled for December 14, 2017; it was dismissed with leave to reapply.

Issues to be Decided

Is the tenant entitled to a monetary order for return of double the amount of the security deposit, pursuant to Section 38 of the Residential Tenancy Act (Act)?

Is the tenant to a monetary order for compensation, pursuant to Section 67 of the Act?

Is the tenant entitled to recover the filing fee, pursuant to Section 72 of the Act?

Analysis and Conclusion

The preliminary issue to be determined is whether the hearing ought to be adjourned or dismissed.

Under rule 7.9 of the Residential Tenancy Branch Rules of Procedure, there are criteria which much be considered for any request of an adjournment. I have considered the facts and find that the only reason provided by the Applicant to request an adjournment is due to the neglect on her part to attempt service of the Notice of Hearing and evidence on the Landlord.

The previous Arbitrator had already granted this Tenant leave to reapply and the Tenant failed to follow through with proper service on the Respondent, despite having several months between the most recent application and the hearing date. Accordingly, it is not appropriate under these circumstances to grant an adjournment and schedule a third hearing date.

As the Tenant has had two scheduled hearings and has failed to serve the Landlord for either claim, I am dismissing the Application 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: July 12, 2018

Residential Tenancy Branch