



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 1:50 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Preliminary Issue: Service of Landlord's Application

The landlords advised that they served the application for dispute resolution package by sending a copy by registered mail on December 9, 2017, to an address provided by the tenant. The landlord advised that the package included a monetary order worksheet and evidence in support of their application; however, the landlord did not include a copy of the Notice of Dispute Hearing. The landlord advised they received an e-mail from the Residential Tenancy Branch notifying them of the hearing date but they were not aware they were required to serve the tenant with a copy of this Notice.

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 or a decision of the director to proceed with a review under Division 2 of Part 5, 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 find the landlord has provided insufficient evidence that the tenant has been served with the landlord's application for dispute resolution and Notice of Hearing as required by section 89(1) of the Act.

Conclusion

I dismiss the landlord'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: July 23, 2018

Residential Tenancy Branch