



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT MNDCT MNSD

Introduction

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

- a monetary order for compensation for loss or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72 of the *Act*.

While the tenant attended the hearing by way of conference call, the landlords did not. I waited until 1:46 p.m. to enable the landlord to participate in this scheduled hearing for 1:30 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of the Application for Dispute Resolution

The tenant testified that the landlords were served by way of registered mail on March 9, 2018 to an address he had obtained through a title search of the rental property. The tenant did not submit a copy of the title search for this hearing, and nobody attended the hearing on behalf of the landlords.

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;...*

As nobody appeared for the respondents in this hearing, I am unable to ascertain whether the landlords were served in accordance with section 89(1) of the *Act*. Accordingly, I dismiss the tenant's application 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 either application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for the application. The tenant must bear the cost of the filing fee.

Conclusion

I dismiss the tenant's application for monetary compensation and for the return of their security deposit with leave to reapply.

The tenant'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: October 2, 2018

Residential Tenancy Branch