



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 was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on June 20, 2018 (the "Application"). The Tenant applied for compensation for monetary loss or other money owed. The Tenant also applied for the return of the security deposit and reimbursement for the filing fee.

The Tenant appeared at the hearing and provided affirmed testimony. The Landlord did not appear.

The Tenant had submitted evidence prior to the hearing. The Landlord had not submitted evidence. I addressed service of the hearing package and Tenants' evidence.

The Tenant testified that she served the hearing package on the Landlord by regular mail in July. The Tenant confirmed she did not serve the package by registered mail.

Rule 3.5 of the Rules of Procedure states:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

An Application for Dispute Resolution must be served in accordance with section 89 of the *Residential Tenancy Act* (the "Act") which states:

Special rules for certain documents

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;
- (e) as ordered by the director under section 71 (1)...

Sending the Application by regular mail is not a form of service permitted under section 89(1) of the *Act*. The Landlord did not appear at the hearing. I have no evidence before me that would allow me to find that the Landlord received the hearing package and therefore deem it served in accordance with the *Act* pursuant to section 71 of the *Act*.

Given I am not satisfied the Landlord was served with the hearing package in accordance with the *Act*, I dismiss the Application with leave to re-apply. However, this does not extend any time limits set out in the *Act*.

Conclusion

The Application is dismissed with leave to re-apply. However, this does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 05, 2018

Residential Tenancy Branch