



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDCL-S

Introduction

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

- a return of their security deposit pursuant to section 38 of the *Act*;
- recovery of the filing fee from the landlord pursuant to section 72 of the *Act*; and
- a Monetary Order as compensation for loss under the *Act* pursuant to section 67.

Only the landlord's agent and his translator attended the hearing. The landlord's agent explained the tenancy ended on February 28, 2018 and he applied for dispute resolution on March 14, 2018. The landlord said he sent a copy of his application for dispute to the tenant by way of regular mail on March 16, 2018.

Analysis

Section 89 of the *Act* establishes the following rules for certain documents, which include an application for dispute resolution:

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;*

In a dispute resolution, it is imperative that a person knows the case which is to be presented against them, and that they are given a chance to review the evidence on which an applicant intends to rely. I find that the landlord have not served the tenant with the application for dispute resolution in a manner required by section 89 of the *Act*.

As the landlord was unsuccessful in his application, he must bear the cost of his own filing fee.

Conclusion

The landlord's application for a monetary award and to retain the tenant's security deposit is dismissed 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: October 9, 2018

Residential Tenancy Branch