



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT

Introduction

This hearing was scheduled to deal with a tenant's application for return of the security deposit and other money owed under the Act, regulations or tenancy agreement. The tenant appeared at the hearing; however, there was no appearance on part of the landlord despite leaving the teleconference call open for at least 25 minutes.

Since the landlord was not in attendance at the hearing I explored service of the hearing documents upon the landlord. The tenant testified that her tenancy ended on June 30, 2016 and the rental unit was re-rented after her tenancy ended. The tenant left the hearing package with the subsequent tenant of the rental unit who was moving out of the rental unit on or about April 27, 2018. The tenant submitted that the outgoing tenant promised to put the hearing package on the kitchen counter for the landlord. The tenant testified that she also sent the hearing documents to the landlord via email sent on April 27, 2018. The tenant confirmed that she did not have a Substituted Service Order authorizing her to serve the landlord in a way that is different than that required under the Act. The tenant testified that the landlord did not respond to the documents left with the outgoing tenant or the email.

Section 89 provides for the ways an Application for Dispute Resolution and other required documents must be served upon the respondent. An application for a monetary order filed by a tenant must be served upon the landlord in one of the ways permitted under section 89(1) of the Act which are: by personal delivery to the landlord or landlord's agent, by registered mail sent to the landlord's address of residence or address at which a landlord carries on business as a landlord; or, as ordered by the Director in a Substituted Service Order. The tenant confirmed that she did not have a Substituted Service Order authorizing her to serve the landlord in a way that is different than the other methods of service required under the Act.

During the hearing, I informed the tenant that she failed to serve the landlord in a manner that is required under section 89(1) of the Act and I would not proceed to hear her case. The tenant's response was that she was not informed of service requirements by the Information Officer she spoke with the Residential Tenancy Branch.

The Dispute Resolution Process Fact Sheet that is provided to every applicant provides information with respect to serving an Application for Dispute Resolution and evidence upon the other party. Information concerning service of documents is also provided in Residential Tenancy Policy Guideline 12: *Service Provisions* that is available on the Residential Tenancy Branch website. As I informed the tenant, I cannot deem the landlord sufficiently served on the basis the tenant was provided incomplete or inaccurate information by an Information Officer, if that were the case.

Having found that the tenant failed to serve the landlord as required under section 89 of the Act, I dismissed the tenant's application. I have dismissed the Application without leave to reapply because the tenancy ended on June 30, 2016 and the statutory time limit for making an Application for Dispute Resolution is two years after the tenancy ended. The tenant is now out of time to make another Application.

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 26, 2018

Residential Tenancy Branch