



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

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

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The two landlords attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of the Landlords' Application

The landlords testified that the tenant was personally served with the landlords' application for dispute resolution hearing package on February 17, 2018. Both landlords confirmed that they were present for this service.

The landlords' application was filed on February 19, 2018. Therefore, it was not possible for them to have served the tenant with their notice of hearing or application for dispute resolution before it even existed. Further, the tenant did not attend this hearing to confirm receipt of the landlord's application.

Accordingly, I find that the landlords failed to prove service in accordance with section 89(1) of the *Act* and the tenant was not served with the landlords' application.

At the hearing, I informed the landlords that I was dismissing their application with leave to reapply, except for the filing fee. I notified them that they would be required to file a

new application to pursue their monetary claims. I cautioned them that they would have to prove service at the next hearing, including specific evidence regarding the date, method and proof of service, particularly given that they said the tenant had vacated the rental unit in mid-March 2018 and they did not know where he went.

Conclusion

The landlord's application to recover the \$100.00 application filing fee is dismissed without leave to reapply.

The remainder of the landlord's application 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: September 17, 2018

Residential Tenancy Branch