



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for authorization to obtain a return of all or a portion of their security deposit pursuant to section 38 of the *Act*.

While the tenants attended the hearing by way of conference call, the landlord did not. IR attended the hearing as a translator for the tenants. I waited until 1:40 p.m. to enable the landlord to participate in this scheduled hearing for 1:30 p.m. The tenants were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of Documents

Although IR attended the hearing as a translator for the tenants, the language barrier posed a problem for the tenants in this hearing, and after repeated attempts to clarify the details about service of the Application for Dispute Resolution through the translator, I determined that the tenants did not serve the landlord with their Application for Dispute Resolution.

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.

Section 89 of the *Act* establishes the following special rules for service of documents.

Special rules for certain documents

89 (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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) [director's orders: delivery and service of documents].

At the hearing, I advised the tenants of my finding that they had not served the landlord in a manner required by section 89(1) of the *Act*. For this reason, I cannot consider the tenants' application. I am not satisfied that the landlord was properly served with any portion of the tenants' application for dispute resolution.

As the tenants' application has not been served to the landlord in a method required under section 89(1) of the *Act*, I dismiss the tenants' application with leave to reapply. Liberty to reapply is not an extension of any applicable limitation period.

Conclusion

I dismiss the tenants' entire application with leave to reapply. Liberty to reapply is not an extension of any applicable limitation period.

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 18, 2018

Residential Tenancy Branch