



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. The Tenant was not able to give evidence of any service of the application for dispute resolution and notice of hearing as the Tenant did not know that these documents had to be given to the Landlord by the Tenant. The Tenant thought that the Residential Tenancy Branch was going to inform the Landlord of the hearing.

Section 89(1) of the Act provides that a copy of an application for dispute resolution made by a tenant must be given to the landlord in one of the following ways:

- by leaving a copy with the landlord;
- by leaving a copy with an agent of the landlord;
- by sending a copy by registered mail to the address at which the landlord resides or to the address at which the landlord carries on business as a landlord; or
- as ordered under section 71 (1) [*director's orders: delivery and service of documents*].

As the Tenant did not serve the Landlord with the application for dispute resolution and notice of hearing, I find that service has not been accomplished in accordance with the Act. I therefore dismiss the application with leave to reapply. Leave to re-apply 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 13, 2018

Residential Tenancy Branch