



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (the Application) pursuant to the *Residential Tenancy Act* ("the Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application pursuant to section 72.

The landlords did not attend this hearing, although I waited until 1:42 p.m. in order to enable the landlords to connect with this teleconference hearing scheduled for 1:30 p.m.

Tenant D.K. (the tenant) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they served the Application for Dispute Resolution (the Application) to each landlord by registered mail on January 31, 2018. The tenant provided copies of the Canada Post Tracking Numbers to confirm these registered mailings. In accordance with sections 89 and 90 of the Act, I find that the landlords were deemed served with the Application on February 05, 2018.

During the course of the hearing, the tenant referred to evidence in the form of receipts for rent paid to the landlords that she stated were submitted to the Residential Tenancy Branch (RTB) although the only evidence before me at the time of the hearing was a Monetary Order Worksheet as well as the tracking numbers for the registered mailing of the Application. I did not have the evidence before me that the tenant was intending to rely on during the hearing.

The tenant insisted that all of their evidence was provided to the RTB at the time that she made her Application.

Analysis

Rule 3.14 of the Residential Tenancy Branch Rules of Procedure states that documentary evidence intended to be relied on at the hearing must be received by the RTB and the respondent not less than 14 days before the hearing.

I find that the majority of the tenants' evidence that they intended to rely on was not received in accordance with the Rule 3.14 of the Rules of Procedure. I further find that the tenant filed the Application in January 2018 for a hearing in September 2018 and that it was the tenant's responsibility to confirm that all of the tenants' evidence was received by the RTB during that time period.

As I am not able to determine the merits of the tenants' monetary claim without the relevant evidence intended to be relied on before me, I find that I must dismiss the tenant's Application, with leave to reapply.

As the tenant was not successful in this Application, I dismiss their request to recover the filing fee, without leave to reapply.

Conclusion

The Application for a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement is dismissed, with leave to reapply.

The Application to recover the filing fee is dismissed, without 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 06, 2018

Residential Tenancy Branch