



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary claim in the amount of \$1,050.00 for the return of the tenants' security deposit, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing promptly at 1:30 p.m. Pacific Time on Friday, November 9, 2018 and was affirmed. The landlord testified that he was not served by the tenants with any documents regarding this hearing and that the only way he was aware to call into the hearing was based on an email reminder from the Residential Tenancy Branch ("RTB") as the tenants had entered the landlord's email address in their online application. Six minutes into the hearing, tenant YH ("tenant") called into the teleconference hearing late. The tenant was affirmed and was asked how the tenants served the landlord with the Notice of Dispute Resolution Hearing, application and documentary evidence. The tenant testified that the landlord was served by registered mail; however, the tenant was unable to locate the registered mail tracking number or provide the date in which the registered mail was mailed. The tenant was then given five minutes to locate the registered mail tracking number. After three minutes, the tenant provided a number that was listed as an "invalid tracking number" ("number") according to the online Canada Post tracking website. The number has been included on the cover page of this decision for ease of reference.

As a result of the landlord testifying that he was not served with the tenants' application and due to the tenant providing what I find was an invalid tracking number, I find that the tenant has provided insufficient evidence of sufficient service on the landlord. Therefore, I find the landlord has not been served in accordance with the Residential Tenancy Branch Rules of Procedure ("Rules").

Both parties have a right to a fair hearing and the landlord would not be aware of the details of dispute and timelines regarding the service of rebuttal evidence etc., without having received the Notice of a Dispute Resolution Hearing and application. Therefore, I **dismiss** the tenants' application **with leave to reapply**. I note this decision does not extend any applicable time limits under the *Act*.

I do not grant the recovery of the cost of the filing fee due to a service issue.

Conclusion

The tenants' application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*. The recovery of the cost of the filing fee is not granted.

The parties were advised that this decision will be emailed to the email addresses provided confirmed by both parties during the hearing.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 9, 2018

Residential Tenancy Branch