



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 tenant's application pursuant to section 38 of the *Residential Tenancy Act* (the *Act*) for authorization to obtain a return of double their security deposit.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable them to call into this teleconference hearing scheduled for 1:30 p.m. 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. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The tenant gave sworn testimony that they sent a copy of their dispute resolution hearing package by registered mail to the landlord, which the landlord returned as unclaimed. They did not recall when this was sent to the landlord and did not have the Canada Post Tracking Number or Customer Receipt to confirm the details of this method of service to the landlord.

The tenant said that while the landlord did return the security deposit to the tenant, the landlord did not do so within the 15-day time period for taking this action established in section 38 of the *Act*. As such, the tenant said that they were still seeking a monetary Order for the landlord's failure to comply with the provisions of section 38 of the *Act*.

Preliminary Issue - Analysis of Service of Application for Dispute Resolution

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 document]...*

As the tenant provided no details to confirm that these packages were served to the landlord in accordance with section 89(1) of the *Act*, I am not satisfied that the tenant has demonstrated that the landlord was properly served with copies of the tenant's application. For this reason, I dismiss this application with leave to reapply.

Conclusion

I dismiss the tenant's application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*, including the deadlines for applying for dispute resolution.

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: November 20, 2018

Residential Tenancy Branch