



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDCT MNSD

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- the return of the security deposit pursuant to section 38 of the *Act*; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67 of the *Act*.

The tenant attended at the date and time set for the hearing of this matter. The landlords did not attend this hearing, although I left the teleconference hearing connection open until 2:09 p.m. in order to enable the landlords to call into this teleconference hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing documents for this Application. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

As only the tenant attended the hearing, I asked the tenant to confirm that she had served the landlords with her Application for Dispute Resolution and Notice of this hearing. The tenant testified that she applied for a substituted service order to be able to serve the landlord via email or to the address of the rental unit, as she never received a copy of the tenancy agreement and never received the landlords' address for service.

The tenant testified that she left a copy of her Application for Dispute Resolution and Notice for this hearing in the mail box of the rental unit and also served it by Canada Post registered mail to the address of the rental unit. The tenant was not able to provide the registered mail tracking number.

The tenant testified that the landlords did not reside at the rental unit but that they would attend the rental unit regularly to pick up rent cheques from the tenants. The tenant testified that when she resided there, the landlords would receive some of their mail at the rental unit.

The tenant testified that it was her understanding that the Residential Tenancy Branch would be sending the landlords the Notice of this hearing through email, as the tenant stated that she did not receive the decision regarding her application for substituted service.

During the hearing, I accessed the Residential Tenancy Branch file pertaining to the tenant's application for substituted service and reviewed the decision rendered on August 8, 2018. I explained to the tenant that her request for substituted service of her Application for Dispute Resolution and Notice of this hearing by email or to the rental unit address was dismissed with leave to reapply.

Based on the above, and taking into account that the landlords did not attend the hearing, I am not satisfied that the landlords have been sufficiently served with the tenant's Application for Dispute Resolution and Notice of this hearing as required by the *Act*. I have reached this decision based on the testimony of the tenant and the substituted service application decision which has been described above.

Both parties have a right to a fair hearing and the landlords would not be aware of the hearing without having received the tenant's Application for Dispute Resolution and Notice of this hearing. Therefore, I dismiss the tenant's Application for Dispute Resolution with leave to reapply, due to a service issue. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*.

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: December 27, 2018

Residential Tenancy Branch