



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 the *Residential Tenancy Act* (the *Act*) for:

- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 1:40 p.m. to enable the landlord to participate in this scheduled hearing for 1:30 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of the Application for Dispute Resolution

The tenant testified during the hearing that he served the landlord the application for dispute resolution by way of courier service. The tenant also provided the courier tracking information in their evidence.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order.

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;...

Residential Tenancy Branch Guideline #12 discusses the service requirements for service of Applications for Dispute Resolution. Although the method of service used by the tenant does include tracking information and services, the definition of “Registered Mail” under RTB Guideline #12 is “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available”.

As the courier service used by the tenant does not meet the requirements of section 89(1) of the *Act*, I cannot consider the tenant’s application for dispute resolution.

As the tenant’s application has not been served to the landlord in a method required under section 89(1) of the *Act*, I dismiss the tenant’s application with leave to reapply.

Conclusion

I dismiss the tenant’s application with 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: February 19, 2019

Residential Tenancy Branch