



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD FF

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. Both parties attended the hearing. The landlord advised that he was not served with the tenant's application and only became aware of the hearing as we received an e-mail from the Residential Tenancy Branch (the "Branch") as a reminder of the upcoming hearing. The landlord called the Branch and was provided with the hearing details and call-in instructions.

Preliminary Issue: Service of Tenant's Application

The tenant testified that he served the landlord with a copy of the Application for Dispute Resolution and Notice of Hearing by posting a copy to the door of the rental unit.

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]...*

I am not satisfied that the landlord has been served with the tenant's application for dispute resolution by registered mail at an address at which he resides or carries on business or in any other manner required by section 89(1) of the *Act*.

I also note that the tenant had not submitted any evidence in support of this application or proof of providing a forwarding address to the landlord in writing which is a prerequisite to claiming a return of a security deposit. The tenant is advised to do so before resubmitting this application.

Conclusion

I dismiss the tenant's application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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: March 08, 2019

Residential Tenancy Branch