



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 adjourned Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”), requesting the return of their security deposit. The matter was set for a conference call.

One of the Tenants attended the conference call hearing and were affirmed to be truthful in their testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the Residential Tenancy Act states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The Tenant testified the Application for Dispute Resolution, and Notice of Hearing had been served on the Landlord, by Canada Post Registered mail, sent on February 7, 2019, a Canada post tracking number was provided as evidence of service. Section 3.1 of the Residential Tenancy Branch Rules of Procedure set out the requirements for the service of the Notice of Dispute Resolution Hearing documents:

3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package

The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following

The file notes for the Tenants’ application recorded that the Residential Tenancy Branch provided the Notice of Dispute Resolution Hearing documents to the Tenants on November 19, 2018. Accordingly, the Tenants had until November 22, 2018, to serve the Notice of Dispute Resolution Hearing documents to the Landlord. I have reviewed

the tracking number for the registered mail, and I find that the Tenants had mailed the Notice of Dispute Resolution Hearing documents to the Landlord on March 7, 2019, not February 7, 2019, testified, which was over 100 days after the required service date.

The Tenant testified that she had been moving at the time the documents needed to be served and that was why they were served late. The Tenant also testified that she had also personally served the Notice of Dispute Resolution Hearing documents to the Respondent, but she was unable to testify to the date of that service.

I find that I am again not satisfied that the Landlord had been duly served with the Notice of Hearing in accordance with the *Act*.

Therefore, I dismiss the Tenants' application with leave to reapply. This decision does not extend any legislated timelines pursuant to the *Act*.

Conclusion

I dismiss the Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the legislation. I have not made any findings of fact or law with respect to the Application.

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 21, 2019

Residential Tenancy Branch