



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

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 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. The landlord did not attend the hearing. The tenant did not attend the hearing. Only the tenant's representative attended.

Preliminary Issue: Authorization for representative/Service of Tenant's Application

The tenant's representative stated she was attending on behalf of the tenant who is out of the country. The tenant's representative stated she is the one who filed the application on behalf of the tenant. The tenant's representative stated that the Application for Dispute Resolution and Notice of Hearing was sent to the landlord by registered mail on January 8, 2019 and was returned as unclaimed. The tenant's representative stated that the address it was sent to was obtained from another tenant who had a cheque from the landlord with that address on it. The address is not the same as the landlord's address provided for in the tenancy agreement. Further, the landlord named in this application is not the same landlord named in the tenancy agreement. The tenant's representative stated that the landlord operates under a bunch of different names.

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]...*

The tenant's representative was not able to provide any proof of authorization to act on the tenant's behalf. Additionally, I am not satisfied 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*. The landlord named in the application and to whom the registered mail package was addressed is not the landlord named in the tenancy agreement. The address used for service by the tenant is also not the address provided for in the tenancy agreement.

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: April 26, 2019

Residential Tenancy Branch