



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT

Introduction

This hearing was scheduled to deal with a tenant's application for a Monetary Order for return of the security deposit and compensation for damages or loss under the Act, regulations or tenancy agreement in the amount of \$14,000.00. Both parties appeared or were represented at the hearing and had the opportunity to be make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The tenant named two landlords in filing this application which appear to be father and son as denoted by reference to "senior" and "junior" beside the same name. The landlord responded by pointing out the tenant did not name the landlord's son properly. I have amended the style of cause to reflect the correct name of the landlord's son although I have not made any determination as to whether the landlord's son meets the definition of landlord.

At the outset of the hearing, the landlord's son stated they were not served with the dispute resolution proceeding package but only received an email from the tenant dated July 14, 2019 indicating he would be seeking a rescheduling of the hearing. In response, the landlord's son contacted the Residential Tenancy Branch and determined a hearing was set for this time.

The tenant confirmed that he did not serve the landlords with the dispute resolution proceeding package and only sent the email of July 14, 2019. The tenant was of the position that today's hearing was merely an adjournment of a previous hearing. There was no indication that the case before me had already commenced on an earlier date. The parties stated that they had been in a previous dispute resolution hearing and I requested the file number for that proceeding, which the landlord's son provided (file number referenced on the cover page of this decision).

Upon looking up the file number provided to me, I determined that a hearing was held on March 28, 2019 in response to a tenant's Application to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property, and request for repair orders and orders for compliance. The Arbitrator presiding over the hearing on March 28, 2018 dealt with the 2 Month Notice and dismissed the other remedies sought by the tenant with leave to reapply as provided under Rule 2.3 of the Rules of Procedure.

The tenant filed another Application on April 5, 2019 for monetary since the tenancy was ended.

In light of the above, I determined this is not an adjourned hearing but is a hearing set to deal with another Application filed by the tenant. Accordingly, the tenant was required to serve the dispute resolution proceeding package generated for this Application in accordance with the Act and Rules of Procedure.

Section 59 of the Act requires an applicant to serve each respondent with a copy of the dispute resolution proceeding package within three (3) days of receiving the dispute resolution proceeding package from the Residential Tenancy Branch and this must be done in accordance with service provisions of section 89 of the Act. The Application must also be accompanied by full particulars of the dispute and a detailed monetary calculation. In filing his Application the tenant indicated he would provide further details at a later date. The Residential Tenancy Branch prepared the dispute resolution proceeding package on April 17, 2019 and the tenant has yet to serve it to the landlord.

Further, the tenant claims to have submitted an affidavit two weeks ago but it was not served upon the landlord. Accordingly, I find the tenant failed to provide full particulars as to the nature of the claim and serve the hearing documents as required under the Act and Rules of Procedure.

The tenant requested the hearing be rescheduled because of his illness. The tenant submitted that a motor vehicle accident in 1999 left him injured and he been experiencing worsening symptoms as a result of those injuries.

I declined to adjourn this hearing to a later date as to do so would not result in the advancement of this proceeding. The landlord have not been served with the full particulars of this claim and setting the hearing down for a later date will not rectify the tenant's failure to serve the hearing documents within three days of filing as required. However, I have dismissed the tenant's claims with leave to reapply.

I noted that the tenant had requested return of the security deposit on his Application yet the tenant acknowledged he had not yet provided a forwarding address to the landlord. As such, I informed the tenant that a request for return of the security deposit before giving the landlord a forwarding address in writing is premature and I suggested he complete that step and wait at least 15 days before re-filing. Upon receiving a forwarding address from the tenant in writing the landlord shall have 15 days to administer the security deposit in accordance with section 38 of the Act.

I also informed the parties that under the Act, a tenant has one year from the time the tenancy ends to provide a written forwarding address to the landlord and an Application for Dispute Resolution must be made within two years of the tenancy ending, otherwise the claim ceases to exist.

Issue(s) to be Decided

The tenant's monetary claims against the landlord are dismissed 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: July 19, 2019

Residential Tenancy Branch