



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, RPP, FFT

Introduction

On July 10, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a return of personal property pursuant to Section 65 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On July 26, 2019, the Tenant amended her Application seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*. During the hearing, it was also clear that the Tenant was seeking a return of her security deposit pursuant to Section 38 of the *Act*.

S.K. attended the hearing on behalf of the Tenant; however, as she was unable to answer specific questions about service of documents, she had the Tenant call into the hearing at 9:54 AM. The Landlord attended the hearing with R.W. attending as an agent for the Landlord. All in attendance provided a solemn affirmation.

Records indicated that the Notice of Hearing package was ready for service on July 16, 2019. S.K. advised that she was not sure if the Tenant served the Notice of Hearing package to the Landlord. The Tenant advised that this package was served by someone that was assisting her; however, she did not know when or how this package was served. R.W. confirmed that the Landlord received this package on August 27, 2019 by registered mail.

When the Tenant was asked if the Amendment was served to the Landlord, the Tenant was unsure of this information as well. R.W. advised that the Landlord received two Amendments by registered mail on August 27, 2019. The Tenant could not explain the

nature of two different Amendments, as someone assisting her was responsible for executing service of documents.

While the Landlord has received the Notice of Hearing package and two Amendments, I am not satisfied that the Notice of Hearing package was served in accordance with the timeframe requirements of Rule 3.1 of the Rules of Procedure. In addition, as the Tenant could not speak to service of documents, she was not sure whether two Amendments were made or not.

In addition, in the Tenant's Application, she selected the nature of the dispute as "I want the landlord to return my personal property"; however, under the description, she stated, "This is not the issue but there is no other choice. The tenant, M.K.[sic] wants to move in to the rental property and the landlord said they changed their mind, but she already gave notice to her present landlord." As the nature of the dispute is not clear to the Landlord, as there were issues with service of the Notice of Hearing package, and as it was not known how many Amendments were made, I have dismissed the Tenant's Application with leave to reapply.

However, in speaking with the parties, it was clear that a security deposit was paid and was an outstanding issue. The Tenant confirmed that she did not provide a forwarding address in writing to the Landlord, and the Landlord confirmed that she never received a forwarding address in writing from the Tenant.

As the Tenant made her Application before providing the Landlord with a forwarding address in writing, I find the Tenant's Application to be premature. The Tenant provided her forwarding address during the hearing and the Landlord confirmed that she had the same address (the forwarding address is listed on the first page of the decision, for reference). Therefore, the Landlord is put on notice that she now has the Tenant's forwarding address and she must deal with the security deposit, pursuant to Section 38 of the *Act*, within 15 days of receiving this Decision. If the Landlord does not deal with the security deposit within 15 days of receiving this Decision, the Tenant can then re-apply for double the deposit, pursuant to the *Act*.

As the Tenant was unsuccessful in her application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the Tenant's Application for Dispute Resolution 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: September 16, 2019

Residential Tenancy Branch