



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for the return of the security deposit and to recover the filing fee.

Both parties appeared, gave testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary and Procedural matters

At the outset of the hearing the landlord testified that they were not served with the tenant's application until September 11, 2019. The landlord stated the tenant was required to serve them within 3 days of filing their application.

The landlord stated that they received the tenant's forwarding address in the tenant's application and they made an application claiming against the security deposit, which is scheduled to be heard on January 13, 2020.

The tenant stated they were unaware that they were required to serve their application within 3 days. The tenant stated that they served the landlord with their forwarding address; however, they did not know they needed proof of service of their forwarding address.

In this case, the tenant did not comply with the Residential Tenancy Branch Rules of Procedures 3.1, as they were required to serve the Application for Dispute Resolution

and Notice of Hearing, within three days of it being available, which was June 18, 2019 and served on September 11, 2019.

Further, the tenant indicated that they do not have proof the landlord received their forwarding address, other than their application. I am not satisfied the landlord received the tenant's forwarding address prior to making their application. Therefore, I find it appropriate to deem the landlord was served with the tenant's forwarding address on September 11, 2019. The landlord has filed an application for dispute resolution claiming against the security deposit, within 15 day. I find the landlord has complied with section 38 of the Act. The security deposit will be dealt with at the hearing scheduled on January 13, 2020, in accordance with the Act.

As the tenant did not comply with the Residential Tenancy Branch Rules and the Act. I decline to award the filing fee to the tenant.

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 30, 2019

Residential Tenancy Branch