



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFT MNDCT MNSD RPP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- the return of the security deposit pursuant to section 38 of the *Act*;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67 of the *Act*;
- an order for the landlord to return the tenant's personal property pursuant to section 65 of the *Act*; and
- recovery of the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

The tenant's attendend at the date and time set for the hearing of this matter. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

As only the tenant attended the hearing, I asked the tenant to confirm that the landlord had been served with the Notice of Dispute Resolution Proceeding and the tenant's evidence for this hearing. The tenant testified that he failed to serve these documents on the landlord as he believed that it would be done by the Residential Tenancy Branch.

I explained to the tenant that the application would be dismissed with leave to reapply as proof of service of the Notice could not be provided.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedures sets out the requirement of an applicant to demonstrate proof of service:

3.5 Proof of service required at the dispute resolution hearing:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

Pursuant to Rule 3.5 noted above, I do not find that the Notice of this hearing was served by the tenant to the landlord as required by the *Act* and the Rules of Procedure.

The tenant's application is dismissed in its entirety, with leave to reapply. I make no findings on the merits of the matter. The issuance of this decision with leave to reapply does not extend any applicable time limits under the *Act*.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit?
Is the tenant entitled to a monetary award for compensation?
Should the landlord be ordered to return the tenant's personal property?
Is the tenant entitled to recover the cost of the filing fee?

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*.

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: October 08, 2019

Residential Tenancy Branch