



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on July 23, 2019 (the “Application”). The Tenant sought return of the security and/or pet damage deposit.

The Agents attended the hearing for the Tenant. Nobody attended the hearing for the Landlords. I explained the hearing process to the Agents who did not have questions when asked. The Agents provided affirmed testimony.

The Tenant submitted evidence prior to the hearing. The Landlords did not. I asked the Agents about service of the hearing package. The Agents did not know if the hearing package was served on the Landlords.

Section 59(3) of the *Residential Tenancy Act* (the “Act”) requires an applicant to serve their application on the respondent within three days of making the application.

Rule 3.1 of the Rules of Procedure (the “Rules”) states:

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;

c) the dispute resolution process fact sheet...provided by the Residential Tenancy Branch; and

d) any other evidence submitted to the Residential Tenancy Branch...

RTB records show that the hearing package was emailed to the Tenant July 25, 2019 for service by July 28, 2019.

Pursuant to rule 3.5 of the Rules, at the hearing, applicants must demonstrate to the satisfaction of the arbitrator that the respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence.

Here, the Agents did not know if the hearing package was served on the Landlords and therefore could not provide details of service. The Tenant did not submit documentary evidence of service. The Landlords did not submit evidence which may have indicated they received a hearing package in relation to this matter. The Landlords did not appear at the hearing. In the circumstances, I am not satisfied the Landlords were served with the hearing package in accordance with the *Act* and Rules. Therefore, the Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

Conclusion

The Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in 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 *Act*.

Dated: November 05, 2019

Residential Tenancy Branch