



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDCT MNRT RPP FFT

Introduction

This hearing was convened in response to the tenant's Application for Dispute Resolution, dated July 31, 2019 (the Application). Pursuant to the *Residential Tenancy Act* (the Act), the tenant applied for the following relief in the sum of \$22,900.00.

- an order compelling the Landlord to return all or part of the security deposit or pet damage deposit
- an order granting recovery of the filing fee
- a monetary order for damage and loss
- a monetary order for compensation of emergency repairs
- An Order for the landlord to return personal property

Both parties attended the hearing. The tenant stated their Application and Hearing package was sent to the landlord by registered mail on August 12, 2019. The landlord stated they did not receive it. The tenant provided the registered mail receipt as identified in the *style of cause* page (this matter's title page above), as well as a letter dated November 01, 2019 from Canada Post stating they had opened a ticket to resolve what had occurred to the mail. The Canada Post letter states, "*Our records indicate that the item went out to be delivered 2019/08/13, and regrettably, this is the last event in our records*", and, that they are looking into the matter.

None the less, the landlord stated that subsequent to the above dates, and approximately 14 days before this hearing they received a digital USB memory stick from the tenant with purportedly all of the tenant's evidence as submitted to this proceeding, including the tenant's application and hearing documents. The landlord stated they had not been able to aptly review the tenant's application and evidence but would respond to it as they were confident it was all "fraudulent". The landlord relied on the tenant's mailing address stated in their evidence and attempted to provide the tenant some evidence as submitted to this proceeding. The tenant stated they did not receive evidence from the landlord. The landlord stated they had attached their evidence to the exterior of a "lobby door" because the building was locked, and they did not have time to serve their evidence by a different method. During the outset of the

hearing it became understood the tenant had not provided the landlord with a valid address. It was incorrectly written as a *residential address* and not a *mailbox address* within a mail outlet, (as identified in the *style of cause* page, this matter's title page). The tenant stated that in July of 2019 they placed the same erroneous address in the landlord's residential outdoor mailbox with a request for the return of the security deposit; however, the landlord said they did not receive it then.

Despite all the above the parties were provided opportunity to mutually resolve the dispute, to no avail, including separately addressing the security deposit. On reflection, I am not satisfied by several deficiencies in this matter as follows,

- 1). The tenant's evidence does not establish meeting the requirements of **Section 89** of the Act respecting service of the application within 3 days of making it (Section 59 of the Act), or within a reasonable time thereafter. I accept the tenant's evidence that also the Post Office cannot account what occurred to the registered mail.
- 2). Despite the landlord's willingness to forge ahead in this matter I am not satisfied it is not prejudicial to them to have first learned of this entire matter 2 weeks before the hearing.
- 3). The erroneous address given to the landlord has not permitted them to provide their evidence to the tenant in defence of this matter.

Moreover, an Arbitrator cannot arrive at a legally binding outcome by stretching the principles of natural justice and administrative fairness. The parties were given opportunity to ask questions with a view to possible settlement and ultimately exchanged valid address information. However, based on failed service of the application I **dismiss** the tenant's application, *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: November 25, 2019

Residential Tenancy Branch