



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT MNSD

Introduction

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

- the return of the security deposit pursuant to section 38 of the *Act*; and
- recovery of the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

The tenants attended 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 1:56 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.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 tenants and I were the only ones who had called into this teleconference.

As only the tenants attended the hearing, I asked the tenants to confirm that they had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing. The tenants were unable to locate a Canada Post registered mail tracking number to confirm proof of service of the notice of this hearing to the landlord.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure requires:

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.

[My emphasis added]

Therefore, I dismiss the tenants' application in its entirety with leave to reapply due to a service issue. I note this decision does not extend any applicable time limits under the Act.

The tenants must bear the costs of the filing fee for this Application.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit? And if so, is the tenant entitled to statutory compensation equivalent to the value of the security deposit pursuant to section 38 of the Act?

Is the tenant entitled to recover the filing fee for this application?

Conclusion

The tenants' application is dismissed in its entirety with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the Act.

The tenants must bear the costs of the filing fee for this Application.

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