



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MSND, FFT

Introduction

In this dispute, the tenant sought a return of the doubled portion of their security deposit pursuant to section 38(6) of the *Residential Tenancy Act* (the “Act”), and, recovery of the filing fee pursuant to section 72 of the Act.

The tenant, through their representative, applied for dispute resolution on August 8, 2019 and a dispute resolution hearing was held on November 29, 2019. Only the tenant’s representative attended the hearing.

I have only considered evidence relevant to the preliminary issue of this application and make no findings of fact or law regarding the particulars and merits of the claim.

Preliminary Issue: Notice of Dispute Resolution Proceeding

In confirming the means by which the Notice of Dispute Resolution Hearing (the “NDR”) was served on the landlord, the representative acknowledged that they did not serve the NDR in accordance with the Act. Rather, they stated that, while they served copies of their evidence on the landlord, they had incorrectly assumed the NDR would be served by the Residential Tenancy Branch on the landlord. The absence of any representative from the landlord is likely explained by them not being served.

As I explained to the representative during the hearing, an applicant for dispute resolution must serve a copy of the NDR on the opposing party within 3 days of receiving it from the Residential Tenancy Branch. (See [section 59\(3\)](#) of the Act.) They must serve the NDR in compliance with [section 89](#) of the Act. Finally, they must serve any relevant evidence in accordance with the [Rules of Procedure](#), under the Act.

Taking into account that the tenant did not serve the landlord in accordance with the Act, and in the absence of any evidence for me to find that the landlord was notified or otherwise aware of the hearing, I dismiss the tenant's application with leave to reapply.

Conclusion

I dismiss the tenant's application for dispute resolution 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 Act.

Dated: November 29, 2019

Residential Tenancy Branch