



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

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

- authorization to obtain a return of double the value of the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 12 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified that he served the landlord with the tenant's application for dispute resolution hearing package by way of registered mail on August 18, 2019. The tenant was unable to provide a Canada Post receipt or tracking number for the service. The tenant was given 12 minutes during this hearing to locate a tracking number but was unable to do so.

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service,** or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report.***

I find that the tenant was unable to provide a tracking number for service of his application to the landlord. The landlord did not appear at this hearing to confirm receipt of the tenant's application. Accordingly, I find that the tenant failed to prove service in accordance with section 89(1) of the *Act* and Residential Tenancy Policy Guideline 12 and the landlord was not served with the tenant's application.

At the hearing, I informed the tenant that I was dismissing his application with leave to reapply, except for the filing fee. I notified him that he would be required to file a new application and pay a new filing fee, if he wished to pursue this matter further. I cautioned him that he would have to prove service at the next hearing, including any registered mail tracking numbers, if he was sending his application by registered mail.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant's application is dismissed 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: December 02, 2019

Residential Tenancy Branch