



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **RPP, MNDCT**
 MNSD, MNDCT, RPP

Introduction

This hearing dealt with applications filed by both the landlord and the tenant pursuant to the *Residential Tenancy Act* ("Act").

The tenant applied for:

- An order for the landlord to return the tenant's personal property pursuant to section 65.
- A monetary order for damages or compensation pursuant to section 67;

The landlord applied for:

- An order for the return of a security deposit or pet damage deposit pursuant to section 38.
- A monetary order for damages or compensation pursuant to section 67;
- An order for the landlord to return the tenant's personal property pursuant to section 65.

Both the landlord and the tenant attended the hearing. As both parties were present, service of documents was determined.

The landlord did not acknowledge being served with the tenant's application by the tenant. The tenant testified he understood the Application for Dispute Resolution would be emailed to the landlord and that is why he did not send a copy of it to her by any means. The landlord testified she discovered the tenant had filed an application when she contacted the Residential Tenancy Branch about filing an application of her own. The landlord testified the information officer she spoke to provided her with a copy of the tenant's application by email.

The tenant did not acknowledge being served with the landlord's application. The landlord testified she sent the application to the address provided on the copy of the tenant's application she obtained from the Residential Tenancy Branch. The tenant testified that address is a crisis center for the homeless population and not a residence where he resides. During this discussion, I advised the landlord that the issues sought in her application were inconsistent with an application to be made by a landlord. The landlord testified she misunderstood how she was required to respond to the tenant's application and had filed this application instead of uploading evidence into the tenant's application file. The landlord testified she has a dispute resolution hearing set for July for compensation for damages against the tenant.

Analysis

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- a. by leaving a copy with the person;*
- b. if the person is a landlord, by leaving a copy with an agent of the landlord;*
- c. by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- d. if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- e. as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The tenant acknowledged he did not serve the landlord with the Application for Dispute Resolution. As such, I dismiss the tenant's application with leave to reapply.

The landlord acknowledged the application before me was filed in error, in response to the tenant's application. The landlord has another application for compensation to be heard in July 2020. As the within application was filed in error, I dismiss the landlord's application before me without leave to reapply.

Conclusion

I dismiss the tenant's application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*, including the deadlines for applying for dispute resolution or for returning security deposits at the end of a tenancy.

I dismiss the landlord's application without 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: March 30, 2020

Residential Tenancy Branch