



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metrowest
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFT, MNSD, MNDCT**

Introduction

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

Authorization to recover the filing fee for this application from the landlord pursuant to section 72;

An order for the return of a security deposit or pet damage deposit pursuant to section 38; and

A monetary order for damages or compensation pursuant to section 67.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:42 P.M. to enable the landlord to call into this 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 tenant's agent and I were the only ones who had called into this teleconference.

Neither of the tenants attended the hearing, however their agent BT attended. The agent was unable to provide testimony as to whether the tenants had served the landlord with the Notice of Dispute Resolution Proceedings or Application for Dispute Resolution.

The application for dispute resolution must be served in accordance with section 89(1) of the *Act* (reproduced below).

Special rules for certain documents

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents*].

Residential Tenancy Branch Rules of Procedure 3.5 indicates:

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.

As the tenant's agent was unable to demonstrate to my satisfaction that the respondent/landlord was served with the Notice of Dispute Resolution Proceedings Package, I dismiss the tenant's application with leave to reapply.

Conclusion

The application is dismissed with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

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: May 08, 2020

Residential Tenancy Branch