



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on December 28, 2019 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlords return all or part of the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on May 28, 2020 as a teleconference hearing. H.V. appeared on behalf of the Tenants and provided affirmed testimony. No one appeared for the Landlords. The conference call line remained open and was monitored for 15 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that H.V. and I were the only persons who had called into this teleconference.

H.V. testified the Application and documentary evidence package was served on the Landlords by mail on January 2, 2020. H.V. provided a copy of the Canada Post receipt which indicates that the Tenants did not use registered mail with tracking, instead, the Application and documentary evidence was sent to the Landlords my regular post.

Preliminary Matters

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 Tenants have not served the Landlords in a manner required by section 89(1) of the *Act*. I am not satisfied that the Landlords were properly served with the Tenants' Application for dispute resolution or documentary evidence.

In light of the above, I dismiss the Tenants' Application with leave to reapply. The Tenants are at liberty to reapply following the detailed instructions that can be found at: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/apply-online/tenants-direct-request>

As the Tenants were not successful with their Application, I find that they are not entitled to the return of the filing fee.

Conclusion

I dismiss the Tenants' Application 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 28, 2020