



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, RPP

Introduction

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

- a Monetary Order for the return of the security deposit, pursuant to sections 38 and 67;
- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67; and
- an Order for the landlord to return the tenants' personal property, pursuant to section 65.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. Tenant T.L. attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 tenant T.L. and I were the only ones who had called into this teleconference.

Preliminary Issues- Service

Tenant T.L. testified that she personally served the landlord with this application for dispute resolution on September 11, 2020. No proof of service documents were entered into evidence.

Rule 6.6 of the Residential Tenancy Branch Rules of Procedure states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

I find that the tenants have not proved, on a balance of probabilities, that the landlord was served with their application for dispute resolution as no proof of service documents were entered into evidence and the landlord did not attend.

At the hearing, I advised tenant T.L. that I was dismissing this application with leave to reapply.

I notified tenant T.L. that if she wished to pursue this matter further, she would have to file a new application. I cautioned tenant T.L. to be prepared to prove service at the next hearing, as per section 89 of the *Act*.

Conclusion

The tenants' 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: September 28, 2020

Residential Tenancy Branch