



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CA Realty LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNSD, FFT*

Introduction

This hearing dealt with an application by the tenant pursuant to sections 38 and 72 of the *Residential Tenancy Act*. The tenant applied for a monetary order for the return of the balance of the security deposit and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented herself. The corporate landlord was represented by their agent.

As both parties were in attendance, I confirmed service of documents. The landlord stated that he had not received a notice of hearing and only found out about the hearing when he received a reminder by email from the Residential Tenancy Branch. The tenant provided proof of having served the notice of hearing and the evidence package by registered mail. However, the tenant served the package to the landlord's previous address in error.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

Since the landlord was not served with the evidence package, he had no opportunity for rebuttal and therefore the tenant's evidence could not be used in the making of this decision.

I explained this situation to the parties and attempted to mediate a settlement without success. The tenant requested to be allowed to reapply. The landlord agreed to allow the tenant another opportunity to make this application.

Based on the above, I dismiss the tenant's application with leave to reapply.

Conclusion

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: October 23, 2020

Residential Tenancy Branch