



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an authorization to retain the tenant's security deposit, under section 38;
- a monetary order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, pursuant to section 72.

I left the teleconference connection open until 1:36 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M. The landlord, represented by agent PH, attended 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 the landlord and I were the only ones who had called into this teleconference.

The landlord affirmed he did not serve the notice of hearing to the respondent in any of the ways described in sections 88 and 89 of the Act. The hearing cannot proceed fairly when the respondent has not been notified of the hearing.

Based on the foregoing, I dismiss the landlord's application with leave to reapply. Leave to reapply is not an extension of timeline to apply.

As the landlord was not successful, he is not entitled to recover the filing fee.

Conclusion

I dismiss the landlord's application 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: November 30, 2020

Residential Tenancy Branch