



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNSDB-DR, FFT**

Introduction

This hearing, reconvened from an ex parte Direct Request proceeding, dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A return of all or a portion of the security and pet damage deposit pursuant to section 38; and
- Authorization to recover the filing fee from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenants were represented by their agent (the "tenant").

The tenant testified that they did not serve the landlord with the Interim Decision of October 26, 2020 or Notice of Reconvened Hearing. The landlord confirmed that they have not been served with the tenants' materials.

At the outset of the hearing the parties noted a typographic error in identifying the landlord's name. The corrected version is used for the style of cause of this decision.

Issue(s) to be Decided

Are the tenants entitled to any of the relief sought?

Analysis

In the Interim Decision of the Branch dated October 26, 2020 the adjudicator orders that the matter be reconvened to a participatory hearing. The adjudicator writes:

Notices of Reconvened Hearing are enclosed with this interim decision. The applicant must serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon the landlord within three (3) days of receiving this decision in accordance with section 89 of the Act.

The tenant testified that they have not served the landlord with the Interim Decision and Notice of Reconvened Hearing. I accept the undisputed evidence of the parties that the tenant chose not to serve the landlord with the materials as they were required to do. Therefore, I find that the landlord was not served with the tenants' materials and I dismiss the tenants' application in its entirety with leave to reapply.

Conclusion

The tenants' application is dismissed in its entirety 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: February 11, 2021

Residential Tenancy Branch