



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FF

Introduction, Preliminary and Procedural Matters-

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a return of his security deposit; and
- to recover the cost of the filing fee.

This dispute began as an application via the ex-parte Direct Request process and was adjourned to a participatory hearing based on the Interim Decision by an adjudicator with the Residential Tenancy Branch (RTB), dated November 12, 2020, which should be read in conjunction with this decision.

At the participatory hearing, the tenant attended the teleconference hearing. The landlords did not attend the hearing.

As the landlords did not attend the hearing, service of the required documents was considered.

The tenant testified that the landlords were served the Notice of Reconvened Hearing, the interim decision, and all other required documents by registered mail on November 14, 2020, in the same envelope. The tenant said that Canada Post told him he could place both packages in the same envelope.

Analysis and Conclusion

Section 59(3) of the Act requires 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.

Section 89(1) of the Act requires that an application for dispute resolution, which includes the notice of hearing, must be given by handing the documents to the person or by registered mail to, in this case, the landlord's address where they reside or to the address at which the person carries on business as a landlord.

I find the Act requires that each respondent/landlords here, be served separately in order to comply with these sections of the Act.

Additionally, the instructions to the applicant for dispute resolution makes it clear that each respondent is given their own unique Dispute Access Code.

Both parties have a right to a fair hearing and in this case, it would not be possible to know which landlord was served as the documents were in the same envelope.

For these reasons, I find the tenant submitted insufficient evidence that his application package was served to the landlords according to the requirements of sections 59(3) and 89(1) of the Act. I therefore dismiss the tenant's application, **with liberty to reapply**.

I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

As I did not proceed with the tenant's application, I dismiss his request for recovery of the filing fee.

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 25, 2021

Residential Tenancy Branch