



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

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 tenant applied for:

- an order for the landlord to return double the security deposit, under to section 38; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 1:49 P.M. to enable the landlords to call into this teleconference hearing scheduled for 1:30 P.M. The landlords did not attend the hearing. The tenant 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 the tenant and I were the only ones who had called into this teleconference.

The tenant (applicant) testified she served both landlords (respondents) the notice of hearing and evidence (the materials) in a single package sent by registered mail on November 30, 2020. The tracking number is on the cover page of this decision.

The tenant affirmed Canada post informed her that because of Covid mail delivery is not guaranteed and both packages mailed to the same address should be mailed together. The tenant mailed a bigger package addressed to both landlords. Inside the package there were two smaller packages addressed individually to each landlord.

Section 89 of the Act states:

- (1)An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
- (a)by leaving a copy with the person;
 - (b)if the person is a landlord, by leaving a copy with an agent of the landlord;

- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

Residential Tenancy Branch Policy Guideline 12 states each respondent must be served separately:

All parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. **Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.**

[emphasis added]

Based on the tenant's testimony, I find the landlords were not served in accordance with the Act, as both of them were served together. As noted above, each respondent must receive the application and supporting evidence.

The information provided by Canada Post to the tenant does not allow her to serve the materials in a single package. The tenant must serve the landlords separately in accordance with section 89 of the Act and policy guideline 12.

As such, I dismiss the tenant's application for a monetary order with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for a monetary order with leave to reapply.

I dismiss the tenant's application to recover the filing fee without 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: March 18, 2021