



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNSDS-DR, FFT**

Introduction

This participatory hearing was scheduled for 1:30 p.m. on this date, via teleconference call, pursuant to an Interim Decision issued by an Adjudicator on November 18, 2020 in response to the tenant's application for return of the security deposit made under the Direct Request procedure.

At the participatory hearing, only the landlord appeared. The tenants did not appear despite leaving the teleconference call open at least 10 minutes.

The landlord testified that she did not receive the tenant's Application for Dispute Resolution by Direct Request that had been filed in October 2020. Rather, the landlord testified that she had received a Notice of Dispute Resolution Proceeding in her mailbox only last week. The landlord stated the envelope appears to be consistent with registered mail but that she did not have to sign for it.

After receiving the Notice of Dispute Resolution Proceeding, the landlord uploaded evidence to the Residential Tenancy Branch on February 26, 2021 but the landlord did not send a copy of the package to the tenants.

An applicant bears the burden to prove they served their proceeding documents upon the other party in accordance with the Act and/or as ordered. In this case, the tenants were required to serve their original proceeding package to the landlord in person or by registered mail, as required under section 89(1) of the Act, and, the tenants were ordered by the Adjudicator to serve the landlord with the Interim Decision and the Notice of Dispute Resolution Proceeding within three days of receiving the Interim Decision in a manner that complies with the Act. The Interim Decision and Notice of Dispute Resolution Proceeding were provided to the tenants via email on November 18, 2020. I was not satisfied the tenants served the landlord as required given the landlord's

testimony and in the absence of the tenants presenting evidence to prove service occurred. Also of consideration is that the landlord did not serve her evidence to the tenants. Accordingly, I do not consider the tenant's Application for Dispute Resolution further and I dismiss it with leave to reapply. It is important to note that this does not extend any applicable time limit under the Act.

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 02, 2021

Residential Tenancy Branch