



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter proceeded by way of an ex parte Direct Request Proceeding, pursuant to section 38.1 of the Residential Tenancy Act (the Act), and dealt with an Application for Dispute Resolution filed by the tenants on December 17, 2020 for a Monetary Order for the return of the security deposit (the deposit).

On February 8, 2021, the Adjudicator considered the tenants application and determined that the tenants did not serve the landlord with their forwarding address as required by the Residential Tenancy Branch Policy Guideline 49, and determined that this matter should be adjourned to a participatory hearing scheduled for today's date, May 3, 2021.

Both the tenants appeared. As the landlord did not attend I had to consider whether the tenants' complied with the Interim decision which reads as follows:

"Notices of Reconvened Hearing are enclosed with this interim decision. **The applicants 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".**

[Reproduced as written.]

In this case, I am not satisfied that the tenants complied with the interim decision. The tenant MS stated they did not know that they were required to serve the landlord. The tenant IS, gave different dates of service; however, they cannot be related to the service of the documents in the interim decision because the dates given were prior to February 8, 2021. Therefore, I find the tenants have failed to prove they complied with the interim decision made on February 8, 2021.

In this case, the tenants had a prior application for dispute resolution that was made on October 29, 2020 for the same issue. A decision was made on December 4, 2020, the decision in part reads,

“I find that the tenants have not provided a copy of the Proof of Service Tenant’s Notice of Direct Request Proceeding form which is a requirement of the Direct Request process as detailed in Policy Guideline #49. dismissing the tenants with leave to reapply, due to the tenants’ failure to prove service”.

[Reproduced as Written.]
[My Emphasis Added.]

In this case, the tenants have now failed three times to prove documents were served in accordance with the Act, Policy Guidelines and Residential Tenancy Branch Rules of Procedures. Therefore, I find it appropriate to dismiss the tenants’ application without leave to reapply as this an abuse of process.

Conclusion

The tenants’ application is dismissed 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: May 03, 2021

Residential Tenancy Branch