



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD-DR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenant stated that the landlord was served with the notice of hearing package via Canada Post Registered Mail sometime in December of 2020. The landlord with the assistance of her translator/son disputed this claim that no such package was received. The landlord stated that she had received a copy of an interim decision dated January 8, 2021 in which the tenant's direct request process application was denied and a participatory hearing was ordered. In that interim decision it states in part,

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 7 days of receiving this decision in accordance with section 89 of the Act.

Despite the tenant stating that she had read the interim decision, the tenant confirmed that she did not serve the landlord with the hearing package.

As such, I find that the tenant failed to follow sections 89 of the Act and the tenant's application is dismissed with leave to reapply for lack of service. Leave to reapply is not an extension of any applicable limitation period.

This hearing was conducted over a 35 minute period to ascertain the service of the tenant's hearing package. It is clear that during the course of the hearing communication issues prevented the hearing from being conducted efficiently. Based on this, both parties are advised to retain assistance either in the form of a translator or an assistance/agent that could help them effectively communicate during the hearing process.

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 14, 2021

Residential Tenancy Branch