



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD FF

Introduction

This review hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage or loss under section 67;
- authorization to retain all or a portion of the Tenant's security and pet deposit in satisfaction of the monetary order requested pursuant to section 38; and,
- to recover the cost of the filing fee pursuant to section 72.

The landlords did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Reconvened Hearing was confirmed to contain the correct hearing information. The tenant BC (the "tenant") appeared, confirmed they represented both named respondents and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they have not served the landlords with the Review Consideration Decision of June 16, 2021 or the Notice of Reconvened Hearing.

Issue(s) to be Decided

Should the original decision be affirmed and upheld, varied or set aside and replaced with a new decision?

Background and Evidence

The Review Consideration Decision of June 16, 2021 provides:

Notices of the time and date of the hearing are included with this Review Consideration Decision for the review applicant to serve to the review respondent within 3 days of receipt of this Decision. The review applicant must also serve a copy of this Decision to the other party. I further order the review applicant to serve the review respondent with their current address for service together with the notice of hearing and decision. At the new hearing, the review applicant will be required to demonstrate how the documents outlined above have been served to the other party.

The tenant testified that they were not aware of the requirement to serve the review respondent landlords with the Review Consideration Decision and Notice of Hearing and have not served the landlords with any materials.

Analysis

Sections 88 and 89 of the *Act* provide the manners by which documents may be served by a party on another party to a proceeding. The tenant gave undisputed testimony that they have not served the landlord with either the Review Consideration Decision or the Notice of Hearing.

I find the Review Consideration Decision to be unambiguous in its instructions to the tenant of their requirement to serve the landlord. I do not find the tenant's submission that they were unaware of the need to serve the other party to be reasonable under the circumstances.

I accept the undisputed evidence that the tenant, despite clear instructions outlining their requirement to serve the other party, failed to serve the landlord in accordance with the Act or at all. Consequently, I dismiss the present application for a review by the tenant and affirm the original decision and order of May 19, 2021.

Conclusion

The decision and order of May 19, 2021 are affirmed.

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: October 4, 2021

Residential Tenancy Branch