



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- authority to keep the tenants' security deposit to use against a monetary award; and
- to recover the cost of the filing fee.

The landlord attended the hearing; however, the tenant did not attend.

The landlord stated he served the tenant with his application for dispute resolution and Notice of Hearing by email on or about July 13, 2021.

The landlord confirmed that the tenant did not provide her email address for service of documents. The landlord said that he used the email address used for communication with the tenant during the tenancy.

Analysis and Conclusion

Section 89(1) of the Act indicates the ways in which a landlord's an application for dispute resolution seeking monetary compensation from the tenant must be given:

- (a) by leaving a copy with the person
- (c) by sending a copy by registered mail to the address at which the person resides

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*]; (**substituted service**);

(f) by any other means of service provided for in the regulations. (**given to a person by emailing a copy to an email address provided as an address for service by the person**)

(Emphasis added)

In the case before me, although the landlord filed this application claiming against the tenant's security deposit within the required time under the Act, I find that the landlord provided insufficient evidence that he served the tenant with his application for dispute resolution as required under the Act, as the tenant had not provided her email address as an address for service of documents.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the landlord's application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

As I did not proceed with consideration of the merits of the landlords' application, I decline to award him recovery of the filing fee.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 10, 2022