



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for the return of the security deposit and to recover the cost of the filing fee.

The tenant attended the hearing. As the landlords did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on July 19, 2021 Canada post tracking number were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlords have been duly served in accordance with the Act.

Issue to be Decided

Is the tenant entitled to the return of the security deposit?

Background and Evidence

The tenant testified that they paid rent in the amount of \$1,265.00. The tenant stated that they paid a security deposit of \$575.00. The tenant stated that they vacated the premises on June 30, 2020 as they were served with a four month notice to end the tenancy.

The tenant testified that they provided their forwarding address to the landlords in a text message they sent on December 3, 2020. The tenant stated that the landlords did not respond to that text message.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to give or serve documents generally

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person **must be given** or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;

- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service provided for in the regulations.

In this case, the tenant sent the landlords their forwarding address in a text message on December 3, 2020, which was not acknowledged received by the landlords. I find text messaging is not a permitted method under the Act, as any required documents, such as the forwarding address required by the Act, must be served in a manner permitted by section 88 of the Act. Therefore, I cannot find the landlords were served with the tenant's forwarding address.

As the tenancy ended on June 30, 2020, and the tenant was required to provide their forwarding address to the landlords in a method permitted under Act, within 1 year of the tenancy ending and that date has now past, I find I must dismiss the tenant's application without leave to reapply. As the tenant was not successful with their application I decline to award 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*.

Dated: January 19, 2022

Residential Tenancy Branch