



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, MNDCT, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenant, V.F. attended the hearing on behalf of H.W. (the tenants) via conference call and provided undisputed affirmed testimony. The landlord did not attend or submit any documentary evidence.

The tenants 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.

At the outset, the tenants stated that he was not sure if they had served the notice of hearing package to the landlord. The tenants remarked that they thought the hearing package would be served via the Residential Tenancy Branch (the RTB) after receiving a copy of it from the RTB. The tenants were given some time to clarify their answer on the service of the notice of hearing package. The tenants was unable to provide any details of service of the hearing package. At approximately 1:50pm, the hearing was concluded without the landlord.

Section 89 of the Act states in part that an Application for dispute resolution is required to be given to one party by another and must be 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 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 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*];
- (f) by any other means of service provided for in the regulations.

In this case, the tenants were unsure how or if the notice of hearing package was served to the landlord. The tenants were unable to provide any details and in fact stated that they thought the hearing package would have been served by the Residential Tenancy Branch on their behalf. On this basis, I find on a balance of probabilities that the tenants' application is dismissed with leave to reapply for lack of service. Leave to reapply is not an extension of any applicable limitation period.

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 17, 2022

Residential Tenancy Branch