



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF

Introduction

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

- a monetary order for unpaid rent;
- compensation for alleged damage to the rental unit by the tenants;
- compensation for a monetary loss or other money owed; and
- to recover the cost of the filing fee.

The landlord and the tenants attended, and the hearing process was explained.

A discussion began on preliminary matters.

The landlord confirmed that he had not served the tenants with his Application for Dispute Resolution, evidence, and Notice of Hearing (application package) for the hearing, as he was waiting to hear from the Residential Tenancy Branch (RTB) about the appropriate way to serve the documents.

I informed the landlord I would be unable to proceed with a hearing on the landlord's application, due to insufficient service of the application package to the tenants.

The landlord mentioned that the tenants had made an application for dispute resolution against him, which was set for hearing in August 2022. This application dealt with the tenants' claim for a return of their security deposit and pet damage deposit.

Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution must be given 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.

I find the landlord submitted insufficient evidence that his application package was served to the tenants according to the requirements of section 89(1) of the Act and within three days of receiving the application package. I therefore dismiss the landlord's application, **with leave to reapply**, due to service issues as described above.

I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

As I have not considered the merits of the landlord's application, I dismiss his request to recovery the filing fee, without leave to reapply.

As the matter was brought to my attention at the hearing, I informed all parties that they may wish to review their respective rights and obligations regarding a tenant's security deposit and pet damage deposit under sections 38 and 39 of the Act.

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 24, 2022

Residential Tenancy Branch