



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, RPP

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order and an order to have the landlord return the tenant's personal property.

The hearing was conducted via teleconference and was attended by the tenant.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by leaving a copy in the landlord's mailbox. The tenant could not recall what date he served the landlord.

Section 89 (1) of the *Act* states an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, 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.

Section 43 of the Residential Tenancy Regulation states 43 for the purposes of section 89 (1)(f) of the *Act*, the documents described in section 89 (1) of the *Act* may be given to or served on a person by emailing a copy to an email address provided as an address for service by the person.

Based on the tenant's testimony, I find the tenant failed to serve the Notice of Hearing documents in a manner that is compliant with Section 89 of the *Act*. I also find the tenant is unable to confirm what date he served the documents to the landlord. As a result, I find the tenant has failed to establish that he has served any documentation to the landlord for the purposes of this hearing.

I note that this is the third time the tenant has attempted to file this claim, I would suggest the tenant seek out the assistance of a friend and/or an advocate who is familiar with Residential Tenancy Branch dispute resolution.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit; compensation for his personal property; and for an order to return his personal property, pursuant to Sections 38, 65, 67, and 72 of the *Act*.

Conclusion

Based on the tenant's failure to prove he had served the landlord with notice of this hearing, I dismiss the tenant's Application with leave to reapply. I note that this leave does not extend any legislated time frames or restrictions to submit such an application.

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: February 11, 2022

Residential Tenancy Branch