



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD-DR FFT

Introduction and Analysis

This hearing dealt with the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order in the amount of \$1,100.00 for the return of double their security deposit and to recover the cost of the filing fee.

The tenants attended the teleconference hearing. As the landlord did not attend the hearing, the tenants were asked how they served the landlord. The tenants confirmed that they sent the Notice of Dispute Resolution Hearing (Notice of Hearing) by email to the landlord. The tenants did not include an email address for the landlord in their application, which was added at the time of the hearing. Section 43(2) of the *Residential Tenancy Regulation* applies and states:

Other means of giving or serving documents

43(2) For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person **by emailing a copy to an email address provided as an address for service by the person.**

[emphasis added]

The tenants were unable to present documentary evidence to support that the respondent landlord provided their email address as a method for service. Both parties have the right to a fair hearing. The landlord would not be aware of the hearing without having received the Notice of Hearing and application. Therefore, **I dismiss** the tenants' application **with leave to reapply** as I am not satisfied that the landlord has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

I decline to award the filing fee due to a service issue.

Conclusion

The tenants' application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the Act.

This decision will be emailed to the tenants and to the landlord's email address provided at the time of the hearing.

The filing fee is not granted due to the service issue.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 7, 2022

Residential Tenancy Branch