



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNSD FFT**

Introduction

This hearing was convened by way of conference call in response to the Tenants' application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act") in which the Tenants seek:

- a monetary order for the return of all of the security deposit and/or pet damage deposit(s) pursuant to section 38; and
- authorization to recover the filing fee for the Application from the Landlord pursuant to section 72.

The Landlord did not attend this hearing scheduled for 1:30 pm. I left the teleconference hearing connection open for the entire hearing, which ended at 2:05 pm, in order to enable the Landlord to call into this teleconference hearing. One of the two Tenants ("MS") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding ("NDRP"). I also confirmed from the teleconference system that MS and I were the only ones who had called into this teleconference.

Preliminary Matter – Service of NDRP on the Landlord

MS stated the Tenants served the Landlord with the NDRP by email on April 14, 2022. MS did not provide any evidence that the Landlord had given written consent for the Tenants to serve documents on the Landlord by email. As such, I find the Landlord was not served with the NDRP in accordance with the requirements of section 89 of the Act. Based on the foregoing, I dismiss the Application in its entirety with leave to reapply. The Tenants have the option of making a new application for dispute resolution to seek the return of their security deposit.

Conclusion

The Application is dismissed in its entirety with leave to reapply.

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: November 3, 2022

Residential Tenancy Branch