



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

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

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

This matter was set for a conference call hearing at 1:30 p.m. on this date. Both parties participated in the hearing. The landlord testified that he was not served notice of this hearing from the tenant, but only through a courtesy reminder email on December 24, 2022 from the Branch that a hearing was scheduled for this date. The tenant stated that she did serve the landlord the Notice of Hearing Package and Application for this hearing through Canada Post. However, the tenant's information regarding the dates and mail tracking were in direct contradiction to her testimony. In addition, the tracking information submitted for this hearing did not provide any details of delivery. The reminder email from the Branch is simply a courtesy to the parties and not a substitute for the requirements that an applicant must complete as part of serving their application. The tenant was unable to satisfy me that the landlord had been served the Notice of Hearing Documents in accordance with Section 89 of the Act and as a result, I dismiss the tenant's application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

Conclusion

The tenant's application is dismissed with leave to reapply. The request for the recovery of the filing fee is dismissed without 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: January 05, 2023

Residential Tenancy Branch