



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing.

Preliminary Issue: Service of Landlord's Application

The landlord testified that she served the application for dispute resolution package on the tenants by e-mail on November 26, 2022. Although the landlord was approved to serve the tenants by substituted service, the landlord failed to provide any proof of service documents such as a copy of the e-mail sent to the tenants and/or any read receipts. The landlord was advised of the requirement to provide such in the substituted service decision dated December 19, 2022. Further, since the landlord was not approved to serve by e-mail until December 19, 2022, the tenants testimony that they served the Application package on November 26, 2022 does not sound correct.

I find the landlord has provided insufficient evidence that the tenants have been served with the landlord's application for dispute resolution in a manner required under section 89 of the *Act*.

Conclusion

I dismiss the landlord's application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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: August 24, 2023

Residential Tenancy Branch