

DECISION

Introduction

The Tenants filed an Application for Dispute Resolution under the *Residential Tenancy Act* (Act) for:

- a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit pursuant to sections 38 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

The Landlord filed a further application for Dispute Resolution under the Act for:

- A Monetary Order for damage to the rental unit or common areas pursuant to sections 32 and 67 of the Act
- A Monetary Order for damage to the rental unit or common areas pursuant to sections 32 and 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67 of the Act
- 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 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Service Landlord's Application

The Landlord testified that they served the dispute notice and evidence on the Tenant by registered mail on two separate dates.

On January 29, 2024 the Landlord served the Dispute Notice and evidence. The Landlord provided a Canada Post Tracking Number orally in evidence during the hearing. The receipts were not provided in evidence.

The Landlord testified that they served further evidence on January 30, 2023. The Landlord provided a Canada Post tracking number orally in evidence. The receipts

showing service by registered mail and the consequent Canada Post tracking numbers were not provided in evidence in documentary form.

The Act requires that the applicant serve on the respondent the dispute notice using one of the service methods provided for in section 89 of the Act. Registered mail is acceptable form of service under section 89 of the Act.

The Act also requires that the applicant serve the respondent with their evidence in support of their application using one of the service methods provided for in section 88 of the Act. Registered mail is acceptable form of service under section 88 of the Act.

Residential Tenancy Branch Policy Guideline 12 states in part:

Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available. This includes Express post, if the signature option is used. Parties using Registered Mail or Express Post should obtain a copy of the proof of delivery from Canada Post and submit that record as proof of service. This can be obtained from Canada Post's website. A screen shot or picture of the information is sufficient.

Upon a thorough search of the evidence provided by the Landlord in support of their application, there is no evidence provided by the Landlord of proof of service as required by the RTB Policy Guidelines. The RTB Policy Guidelines require that the arbitrator be satisfied that the opposing party opposing party is sufficiently served with the Dispute Notice and evidence in support of the application. This is particularly important in a situation where a party fails to attend the hearing. The arbitrator needs to be satisfied that the opposing party was aware of the hearing and knew to attend.

I find that the applicant has not established that they properly served the respondent as the documentation of registered mail service was not provided in evidence. I therefore dismiss the applicant's application. The applicant has leave to reapply.

Tenant's Application

The Tenant did not appear. The Tenant's application is dismissed with leave to reapply.

Conclusion

The Landlord's application is dismissed in its entirety without leave to reapply due to lack of proof of service.

The Tenant's application is dismissed in its entirety as the Tenant did not appear. The Tenant has 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 Act.

Dated: May 3, 2024

Residential Tenancy Branch