Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes   MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for the return of her security deposit and to recover the cost of the filing fee from the Landlord for this application.

Issues(s) to be Decided

1. Has the Tenant met the burden of proof for service of the hearing documents?
2. If so, has the Landlord breached the *Residential Tenancy Act*, regulation or tenancy agreement?

Background and Evidence

The Landlord testified she served the Landlord the hearing documents via registered mail however she was not able to provide testimony as to the date the service was initiated or provide the tracking numbers of the registered mail package.

Analysis

In the absence of the responded the burden of proof of service of the hearing documents lies with the applicant Tenant. In the absence of evidence to proof when and how service was conducted I find there to be insufficient evidence to proof that service of the Notices of Dispute Resolution were effected in accordance with Section 89 of the *Residential Tenancy Act.*

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Tenant's claim, with leave to reapply.

As the Tenant has not been successful with her application, I find she must bear the burden of cost to file her application.

Conclusion

I HEREBY DISMISS the Tenant's claim, 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: April 01, 2011.

Residential Tenancy Branch