



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing was scheduled in response to an application by the tenants for a monetary order as compensation for the double return of the security deposit / and recovery of the filing fee. One of the tenants attended and gave affirmed testimony.

The tenants' application was filed on October 6, 2011. The tenant testified that the application for dispute resolution and notice of hearing (the "hearing package") was mailed to the landlord on December 5, 2011. The tenant further testified that the hearing package was mailed from Washington State by way of priority mail. However, the landlords did not attend the hearing.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 59 of the Act speaks to **Starting proceedings**, and provides in part as follows:

59(3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

As to service of documents, section 89 of the Act speaks to **Special rules for certain documents**, and provides in part as follows:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71(1) [*director's orders: delivery and service of documents*].

Based on the documentary evidence and affirmed / undisputed testimony of the tenant, I find that the tenants did not provide the landlords with a copy of their application for dispute resolution within 3 days of making it. Rather, the tenants' application was mailed to the landlords approximately 2 months after it was made.

I further find that the hearing package was not served pursuant to the statutory provisions set out above in section 89 of the Act.

Conclusion

For all of the above reasons, the tenants' application is hereby dismissed 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: December 20, 2011.

Residential Tenancy Branch