



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD O FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on July 7, 2014, by the Tenant to obtain a Monetary Order for the return of her pet and or security deposit, for other reasons, and to recover the cost of the filing fee from the Landlord for this application.

The Tenant appeared at the teleconference hearing; however, no one appeared on behalf of the respondent Landlord.

Issue(s) to be Decided

Has the Tenant proven that the Landlord was sufficiently served notice of this proceeding?

Background and Evidence

At the outset of this proceeding the Tenant stated that she could not recall when she served Landlord with her application. She indicated that she recalled personally serving the Landlord while standing in the Landlord's front lawn. There were no witnesses to the personal service.

Upon review of the file the Tenant could not recall if or when she served her evidence to the *Residential Tenancy Branch* or to the Landlord.

Analysis

Section 89(1) of the Act stipulates that 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*].

In the absence of the respondent Landlord, the burden of proof of service of the hearing documents lies with the applicant Tenant. In absence of testimony or evidence to prove when the documents had been served, I find there to be insufficient evidence to prove the Landlord was served with Notice of this proceeding, in accordance with the Act.

To find in favour of an application, 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 insufficient evidence for the service of documents, I dismiss the Tenant's claim, with leave to reapply.

The Tenant has not succeeded with their application; therefore, I decline to award recovery of the filing fee.

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: November 24, 2014

Residential Tenancy Branch

