



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 6, specifically return of her security deposit pursuant to section 38 and authorization to recover the filing fee for this application pursuant to section 72.

The landlord did not attend this hearing. The tenant attended the hearing and was given an opportunity to present sworn testimony and make submissions.

The tenant testified that she had made a previous application with respect to her security deposit but that she was unable to attend that hearing. The landlord also did not attend this previous hearing and the arbitrator at that time dismissed the tenant's application with leave to reapply.

At this hearing, the tenant was uncertain with respect to many of the details of this matter, including the date of service of any documents (including the Notice of Hearing) to the landlord. The tenant testified that she was under a great deal of stress at the end of this tenancy. She testified that she could not remember some details regarding her application and whether she served the landlord with her Application for Dispute Resolution ("ADR") and Notice of Hearing.

The tenant did not submit any documentary evidence that could assist in her recall with respect to the service of the documents to notify the landlord of this application and hearing.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. Beyond proper service, it is also essential that a party be able to prove that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent (in this case the landlord) does not appear at a Dispute Resolution hearing, the applicant must be prepared to prove service under oath. The tenant provided candid testimony that she was uncertain as to the details of service and whether she had in fact served the landlord with her ADR and Notice of Hearing.

Prior to considering the details of the applicant's claim, I must be satisfied that the tenant/applicant sufficiently served the other party, allowing that party an opportunity to know the case against them and attend the dispute resolution hearing.

Given the lack of detail and certainty in providing evidence with respect to service, I find that the tenant was unable to prove that the landlord was served with the dispute resolution documents and was therefore aware of this dispute resolution hearing.

Conclusion

I dismiss the tenant's application with leave to reapply. Any applicable timelines for this application will still apply.

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: February 05, 2016

Residential Tenancy Branch

