



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes MNRL-S, FFL; MNSD, FFT

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for their application, pursuant to section 72.

This hearing also dealt with the tenants' application pursuant to the *Act*:

- authorization to obtain a return of double the amount of the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for their application, pursuant to section 72.

The two landlords and the male tenant did not attend this hearing, which lasted approximately 16 minutes. The female tenant ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that she had permission to represent the male tenant at this hearing (collectively "tenants").

Preliminary Issue - Previous Hearings and Service of Documents

This matter was previously heard by a different Arbitrator on November 5, 2020 and a decision was issued on the same date ("original hearing" and "original decision"). The tenants did not attend the original hearing, only the landlord did. The original decision granted a monetary order of \$750.00 to the landlords and allowed the landlords to retain the tenants' security deposit of \$650.00 ("original monetary orders").

The tenants applied for a review of the original decision and a new review hearing (this current hearing on February 18, 2021) was granted by a different Arbitrator, pursuant to a “review consideration decision,” dated November 30, 2020.

By way of the review consideration decision, the tenants were required to serve the landlords with a copy of the review consideration decision and the notice of review hearing, within three days of receiving the review consideration decision.

The tenant testified that she received the review consideration decision on December 3, 2020. She said that she sent a copy of the review consideration decision and notice of review hearing to the landlords on December 3, 2020, by way of registered mail.

During the hearing, the tenant was looking through all of her paperwork in order to obtain the Canada Post tracking numbers for the mail. The tenant was upset, saying that she had a lot of paperwork and she could not find the Canada Post receipts. The tenant provided a Canada Post tracking number verbally during the hearing. I looked up the tracking number on the Canada Post website, which indicated that the mail was sent out on November 12, 2020. I notified the tenant that this date was prior to the review consideration decision being issued on November 30, 2020.

The tenant then said she found another receipt in her wallet and provided a different Canada Post tracking number verbally during the hearing. I looked up the tracking number on the Canada Post website, which indicated that the mail was sent out on September 30, 2020. I notified the tenant that this date was also prior to the review consideration decision being issued on November 30, 2020.

The tenant then claimed that she did not have any other Canada Post tracking numbers for the mail, to provide to me during the hearing.

Accordingly, I find that the landlords were not served, as per section 89 of the *Act*, with the review consideration decision or notice of review hearing, as required. The review consideration decision stated clearly that the above documents were required to be served by the review applicant (tenants) to the review respondent (landlords).

At the hearing, the tenant could not provide any valid Canada Post tracking numbers to confirm the registered mailing of the above documents to the landlords on December 3, 2020. The tenant had 16 minutes of hearing time to look up this service information. Both tracking numbers provided by the tenant indicated dates of September 30, 2020 and November 12, 2020, prior to the review consideration decision, dated November

30, 2020, and prior to the notice of review hearing, dated December 3, 2020. The landlords did not appear at this hearing to confirm service.

Section 82(3) of the *Act* states:

Following the review, the director may confirm, vary or set aside the original decision or order.

During the hearing, I informed the tenant that I could not proceed with the hearing because the landlords had not been served with the required review hearing documents. I notified the tenant that the original decision was confirmed. I informed her that the tenants were required to abide by the original decision and original monetary orders. The tenant confirmed her understanding of same.

I confirm the original decision and original monetary orders, all dated November 5, 2020.

As advised to the tenant during the hearing, section 79(7) of the *Act*, states that a party may only apply once for a review consideration, which has already been completed by the tenants:

(7) A party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.

Conclusion

The original decision and original monetary orders, all dated November 5, 2020, are confirmed.

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 18, 2021

Residential Tenancy Branch