



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on February 15, 2022 seeking an order granting a refund of their security deposit. Additionally, they applied for reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on November 1, 2022. This was set out in the Interim Decision of the Adjudicator dated March 14, 2022. This generated a Notice of Hearing (participatory) sent to the Applicant Tenant.

The Interim Decision on page 3 notified the Tenant that they must serve the Notice of Reconvened Hearing to the Landlord within 3 days of receiving that interim decision. The Residential Tenancy Branch sent this Interim Decision to the Tenant on March 15, 2022 as shown in the record.

Additionally, Notice of Dispute Resolution Proceeding was sent to the Tenant on March 15, 2022, with instructions on how to serve the Landlord. This message via email stated: “You must serve separate Notice of Dispute Resolution Proceeding packages to [the Landlord] within three calendar days, or no later than March 18, 2022.”

In the hearing, the Tenant presented that they sent registered mail with this information to the Landlord. The Tenant did not provide the date on which they did so. The Tenant stated they provided evidence in the form of registered mail receipts; however, these pieces do not appear in the record.

The Landlord who attended stated they received no such notice from the Tenant, and received only a courtesy reminder from the Residential Tenancy Branch on October 18,

2022. The record shows the Landlord contacted the Residential Tenancy Branch on that date to inquire, and the branch sent a copy of the Notice of Dispute Resolution Proceeding to the Landlord on that date. The Landlord subsequently provided evidence to the branch prior to the scheduled hearing.

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the parties in this process is the *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114). This form sets out this three-day timeline.

Additionally, the *Act* s. 59(3) sets out that “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. . .”

I conclude the Tenant did not serve the Notice to the Landlord in line with the *Rules of Procedure* and the *Act*. This prejudiced the Landlord as the respondent in this hearing.

Conclusion

Because the Tenant did not serve Notice of this hearing to the Landlord as required, I dismiss the Tenant’s Application in its entirety, without 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 *Act*.

Dated: November 1, 2022

Residential Tenancy Branch