

DECISION

Dispute Codes MNR MNSD FF

Preliminary Issues

The landlord testified that he did not receive a copy of the tenant's evidence.

The tenant testified that the landlord provided an incorrect fax number on the application for dispute resolution and that the tenant called the landlord on May 20, 2009 and was given a different fax number by the landlord to try. The tenant stated that she tried to fax the evidence on May 21, 2009 but that the fax did not go through.

The landlord testified that he served the tenant the Notice for Dispute Resolution package by leaving it at her place of employment with one of her co-workers who told him that they would place the envelope on the tenant's desk.

Analysis

Section 4.1 of the *Residential Tenancy Branch Rules of Procedure* stipulate that if the respondent intends to dispute an Application for Dispute Resolution, copies of all available documents, photographs, video or audio tape evidence the respondent intends to rely upon as evidence at the dispute resolution proceeding must be served on the applicant as soon as possible and at least 5 days before the dispute resolution proceeding. I find that the tenant failed to comply with the above mentioned rules of procedure as she failed to serve the landlord with copies of her evidence.

Section 89 of the *Residential Tenancy Act* stipulates that an application for dispute resolution made by the landlord must be served to the tenant in one of the following ways:

- 1) by leaving a copy with the person, in this case serving the tenant in person
- 2) by sending a copy by registered mail to the address at which the person resides

- 3) by sending a copy by registered mail to a forward address provided by the tenant
- 4) or as order4ed by the director under section 71 (1) of the *Act*

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. Based on the aforementioned, I hereby find that the landlord has failed to meet the requirements of service of the hearing documents to the tenant.

Conclusion

Having found that the tenant's evidence was not served to the landlord in accordance with the *rules of procedure* and having found that the landlord has not served the tenant with notice of dispute resolution in accordance with the *Act* , I HEREBY DISMISS the landlord's application 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: May 28, 2009.

Dispute Resolution Officer