

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

### **Dispute Codes:**

*MND, MNSD, FF*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order for the cost incurred to repair the rental unit after the tenant moved out, pursuant to section 67;
- An order to retain the security deposit in satisfaction of the monetary claim, pursuant to section 38;
- An order to recover the filing fee, pursuant to section 72.

The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

- Was the tenant served the notice of hearing?
- Is the landlord entitled to retain the security deposit?
- Is the landlord entitled to a monetary order for repairs and the filing fee?

### **Background and Evidence**

The tenant gave written notice to end tenancy on January 31, 2009, and moved out on March 02, 2009, without leaving a forwarding address. The landlord found the suite in a state of disrepair and has filed photographs which depict the condition of the suite. The tenant left behind furniture and did not clean or remove garbage.

The landlord stated that she served the notice of hearing on the tenant by registered

mail to the dispute address on March 05, 2009. A review of the tracking number (79 333 735 688) on the Canada post website, indicates that the *“item was successfully returned to the sender”*

### **Analysis**

Section 12 of the *Residential Tenancy Policy Guideline* states that when a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant.

In this case the landlord mailed the notice of hearing by registered mail, to the tenant at the dispute address, on March 05, 2009. The tenant had already moved out on March 02, 2009 and therefore did not receive the notice of hearing. The notice was returned to the landlord.

I am not satisfied that the tenant was served the notice of hearing and therefore, I dismiss this application with leave to re-apply.

### **Conclusion**

The landlord's application is dismissed with leave to reapply.

Dated May 29, 2009.

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Dispute Resolution Officer