



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

MNR & FF

Introduction

This hearing dealt with an application by the landlord seeking a monetary claim due to non-payment of rent and utilities by the tenant.

The landlord stated that she attempted to serve the tenant by registered mail but the package was refused. The landlord subsequently sent another registered package on May 14, 2009 to the tenant's son's address. The landlord was not able to tell me whether this package was accepted or rejected.

The landlord also claimed that the evidence she wished to rely upon had been sent to the *Residential Tenancy Branch*; however, no evidence was on file. The landlord subsequently sent 17 pages of evidence by fax after the hearing concluded. I have no evidence before me to confirm how, when or what evidence the tenant was served as part of the landlord's application.

Although the landlord has never received any confirmation that the tenant was served with notice of this hearing, the tenant did send in 5 page response on June 5, 2009. The tenant did not appear for the hearing.

The tenant provided a response to the landlord's application; it was received 3 days before the hearing. The landlord was responsible for ensuring that the tenant was served with 3 days after receiving the notice of hearing documents. I have no way of determining if the tenant was served at an address at which she resides or whether she became aware of this proceeding by chance only days before the hearing. I also do not know if the tenant was served within 3 days of the landlord receiving the hearing documents, as required by section 59 of the *Act*, or days before the hearing.

I am not satisfied that the landlord provided the evidence faxed on June 12, 2009 before this hearing and I have no evidence that the tenant was ever served with these documents.

I have very little confidence that proper service has occurred as required by the principals of natural justice and find that to proceed with this application would be procedurally unfair to the tenant.

Conclusion

I am not satisfied that the landlord has diligently pursued this application and met the requirement so serving the tenant with notice of the application and evidence and therefore, I dismiss the application with leave to re-apply.

Dated June 18, 2009.

Dispute Resolution Officer