

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for unpaid rent or utilities, for damage to the unit, to keep all or part of the pet and or security deposit, for money owed or compensation for damage or loss under the Act, and to recover the cost of the filing fee from the Tenants for this application.

Preliminary Issues

The Landlord testified that he served the Female Tenant with the Notice of Dispute Resolution Service in person at the rental unit on April 17, 2009 and that the Male Tenant was sitting inside the rental unit while he served the Female Tenant with both notices. The Landlord did not know the time of day that the service took place and he did not have a witness to the service of the hearing documents.

The Landlord later advised that the tenancy ended on March 31, 2009. The Landlord could not explain definitively how he could have served the Tenants with notice of today's hearing at the rental unit, 17 days after the tenancy ended.

Analysis

The onus is on the applicant Landlord to prove service of the notice of dispute resolution hearing documents to the respondent Tenants. Based on the foregoing and the absence of the Tenants, I find that the Landlord has failed to prove that service was effected according to section 89 (1) of the *Residential Tenancy Act*.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper

notice to be able to defend their rights. As I have no proof that the service of documents has been effected in accordance with the *Act*, I dismiss the landlord's monetary claim.

Conclusion

I HEREBY DISMISS the landlord's application for a Monetary Order 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: July 15, 2009.

Dispute Resolution Officer