



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

MND, MNR, MNSD, & FF

Introduction

This hearing was to deal with the landlord's application for a monetary claim related to damage to the rental unit caused by the tenant and loss of rent. The landlord was also seeking to retain the tenant's security deposit plus interest in partial satisfaction of this claim.

Preliminary Issue:

The landlord attempted to serve the tenant by registered mail to a mail box number associated to the rental address. This box number was on a document as a mailing address for the tenant; but the document was dated in April 2005. The landlord confirmed that the registered package was returned as unclaimed.

Issues(s) to be Determined

Has the landlord met the service requirements of section 89 of the *Act*?

Analysis

Section 89 of the *Act* requires that a tenant be served with notice of an application seeking compensation in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

In the circumstances before me the landlord attempted to serve to an address which was not provided by the tenant. Rather it was an old address which was found on a



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document which the tenant abandoned in the rental unit. The landlord did not have any means of confirming a current address where the tenant resides.

As a result I find that I cannot deem the tenant as having been served as the documents were not sent in a manner allowed by section 89. In the absence of service of the documents to the tenant I find that this matter cannot proceed.

I dismiss the landlord's application with leave to re-apply.

Conclusion

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*.

The landlord's application is dismissed with leave to re-apply. I have determined that the tenant was not served with notice of this application and hearing as required by section 89 of the *Act*.

Dated: July 24, 2009.

Dispute Resolution Officer