

DECISION

Dispute Codes MNSD FF O

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for the return of the security deposit, to recover the cost of the filing fee from the Landlord, and for money owed for loss under the Act.

Preliminary Issues

The Tenant testified that he served the Landlord with the Notice of Dispute Resolution via registered mail to the address of the rental unit. The Tenant confirmed that his tenancy ended in July 2008.

When asked if the Tenant knew for certain that the Landlord resided at the rental unit address the Tenant responded, "I don't know for fact if he's living there or if he's sold the place and moved".

Analysis

The Tenant testified that he did not know if the Landlord still resided at the address the package was addressed and so the Tenant was unable to prove that the hearing package was sent to a Landlord via registered mail in accordance with section 89 of the Act which provides that it must be sent to the address at which the person carries on business as a landlord.

I find that the Tenant has failed to prove that service of the Notice of Dispute Resolution was effected in accordance 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 found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Tenant's claim, with leave to reapply.

As the Tenant has not been successful with his application, I find that he is not entitled to recover the cost of the filing fee from the Landlord.

Conclusion

I HEREBY DISMISS the Tenant's claim, 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: November 25, 2009.

Dispute Resolution Officer