

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 damage to the unit, for unpaid rent and or utilities, to keep all the security deposit, and to recover the cost of the filing fee from the Tenant for this application.

Preliminary Issues

The Landlord testified that she served the Tenant personally with the Notice of Dispute Resolution, at the Tenant's place of employment. The Landlord could not provide testimony of the date, time, or street address when the personal service took place nor did the Landlord provide affidavits from anyone who may have witnessed the service.

Analysis

The Landlord could not testify for certain that she knew the exact address, date and time, where the Notice of Dispute Resolution hearing package was served.

I find that service of the Notice of Dispute Resolution was not effected in accordance with Section 89 of the *Residential Tenancy Act* which states that service of Notice of Dispute Resolution, if served personally, the Landlord must be able to prove the date, time, and location of the service.

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 Landlord's claim, with leave to reapply.

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

Conclusion

I HEREBY DISMISS the Landlord'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 16, 2009.

Dispute Resolution Officer