

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order 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 the notice of dispute resolution was sent to the Tenants via registered mail and the date on the only receipt she had in the file was August 7, 2009.

Analysis

The Landlord provided evidence that the hearing package was sent to the Tenants via registered mail on a date that preceded the application date of August 10, 2009. The Landlord could not testify for certain that she knew where the receipt was for the hearing package and the only receipt she had was dated August 7, 2009.

Based on the above I find that the Landlord has failed to prove that service of the Notice of Dispute Resolution was effected in accordance with Section 89 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 found the service of documents has not been proven 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 Tenants.

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: December 01, 2009.

Dispute Resolution Officer