

DECISION

Dispute Codes OPC MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords to obtain an Order of Possession and 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 Tenant for this application.

The female Landlord testified and confirmed that the notice of dispute resolution was sent to the Tenant, via registered mail, and that the envelope was returned to the Landlords marked unclaimed and moved. The female Landlord confirmed that the envelope was addressed to the rental unit with only the first name of the Tenant written on the envelope.

Analysis

The Landlords provided testimony that they served the Tenant the hearing package, on October 31, 2009, via registered mail addressed to only the first name of the Tenant and that the registered mail was returned to the Landlords marked unclaimed and moved.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlords are seeking to end the tenancy and obtain a monetary order; however, the Landlords have the burden of proving that the Tenant was served with notice of Dispute Resolution.

In the presence of testimony and documentary evidence confirming that the registered mail package containing the hearing package was not addressed to the Tenant's full name, and that the envelope was returned to the Landlords unopened, I find that service of the Notice of Dispute Resolution cannot be deemed effected in accordance with section 89 of the Act. As I have found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Landlords' claim, with leave to reapply.

As the Landlords have not been successful with their application, I decline to award them recovery of the filing fee.

Conclusion

I HEREBY DISMISS the Landlords' 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 11, 2009.

Dispute Resolution Officer