

DECISION

Dispute Codes MND MNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for unpaid rent or utilities and for damage to the unit site or property.

Issues(s) to be Decided

Is the Landlord entitled to a Monetary Order a) for unpaid rent or utilities, and b) for damage to the unit site or property under section 67 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified that he served the Tenant with the Notice of Dispute Resolution package by leaving the package with a person who resides at the trailer where the Landlord believes the Tenant currently resides.

Analysis

All of the testimony and documentary evidence was carefully considered.

Section 89 of the *Residential Tenancy Act* provides that service of a Notice of Dispute Resolution must be given to the respondent(s) Tenant in one of the following ways: a) by leaving a copy personally with the respondent; or b) by sending it via registered mail to the address where the person resides; or c) as ordered by the direct under section 71 (1). In this case the Landlord provided testimony that he served the respondent Tenant by leaving a copy of the hearing package with a person whom the Landlord believes resides with the respondent Tenant, which is not in accordance with the 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. I find the service of documents have not been effected in accordance with the *Act*, therefore I dismiss the Landlord's claim, with leave to reapply.

As the Landlord has not been successful with his application, I find that he 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: April 12, 2010.

Dispute Resolution Officer