

Decision

Dispute Codes:

MND, MNR, MNSD, MNDC, FF

Introduction

This is the Landlords' application for a Monetary Order for unpaid rent, damages and compensation for damage or loss; to apply the security deposit in partial satisfaction of the monetary award; and to recover the cost of the filing fee from the Tenant.

Preliminary Matters

This application was scheduled to be heard via teleconference on April 30, 2010 at 9:00 a.m. The Landlords' application was filed on December 9, 2009. The Landlord RD testified that he had difficulty locating the Tenant and was not able to serve the Tenant with the Application for Dispute Resolution, Notice of Dispute Resolution Hearing and the Landlord's evidence package until April 24, 2010 at the Tenant's place of business. The Tenant did not sign into the conference.

Analysis

Section 59(3) of the Act provides that a copy of the Applicant's Application must be provided to the Respondent within three days of making the application.

The Rules of Procedure with respect to service of documents provide that documents and evidence must be served on the other party at least 5 days before the Hearing. When calculating the number of days, the first and the last day are excluded. In other words, the Landlord was required to provide the Tenant with the Application for Dispute

Resolution by December 12, 2009, and was required to provide the Tenant with copies of his evidence by April 23, 2010.

I find that the Landlord did not serve the Tenant with the Notice of Hearing documents or his evidence package within the time lines set out in the Act and the Rules of Procedure. Therefore, the Landlord's application is dismissed with leave to reapply.

Conclusion

The Landlord's application is dismissed with leave to re-apply.

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.

May 4, 2010

Date of Decision