

DECISION

Dispute Codes MND, FF

Introduction

This hearing was scheduled to hear the landlord's application for a Monetary Order for damage to the rental unit. The tenant did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenant via registered mail on December 30, 2009 to the forwarding address provided by the tenant on May 8, 2009. The registered mail was returned to sender and indicates that the recipient had moved. The landlord testified that a search of the forwarding address provided by the tenant shows that the forwarding address is the address of the tenant's mother.

Analysis

Section 89(1) of the Act provides for the ways a party must serve another party with an Application for Dispute Resolution. Where the landlord serves the tenant with an Application for Dispute Resolution it must be:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides,
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

Although the landlord served the tenant at the forwarding address provided by the tenant, the address was provided by the tenant several months prior to date of mailing and I found it reasonably likely that during such time the tenant may have moved. Even if the tenant had not moved, the landlord did not indicate that attempts were made to verify the tenant was still residing at that address or could be served at that address.

The dispute resolution process is based on the principals of natural justice. Natural justice requires that a respondent be informed of the nature of the claim against them and the opportunity to defend themselves. I found sufficient time has lapsed that sending the Application for Dispute Resolution to the forwarding address provided by the tenant is not sufficient evidence that the tenant has been notified of the claim being made against the tenant.

In light of the above, I dismissed the landlord's application with leave to reapply in order to provide the landlord the opportunity to reapply once the landlord determines the address at which the tenant resides and the tenant at that address. The landlord is also at liberty to serve the tenant in person as provided by section 89(1)(a) of the Act.

Conclusion

The landlord's application was dismissed 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: May 07, 2010.

Dispute Resolution Officer