

## **DECISION**

**Dispute Codes**      MND, MNR, MNDC, FF

### **Introduction**

This hearing commenced by way of conference call to deal with the landlord's application for a monetary order for damage to the unit, site or property; for unpaid rent and for money owed or compensation for loss or damage under the *Act*, regulation or tenancy agreement. The landlord is also applying to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord attended with a witness, but the tenant did not appear.

When questioned about serving the notice of hearing package upon the tenant, the landlord's agent stated that the package was sent by registered mail on March 8, 2010 and was returned to the sender by the post office marked, "Moved." The landlord's agent re-sent the package on April 13, 2010 to another address that she had obtained for the tenant.

### **Analysis**

The Residential Tenancy Act states:

- 59** (2) An application for dispute resolution must
- (a) be in the applicable approved form,
  - (b) include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, and
  - (c) be accompanied by the fee prescribed in the regulations.
- (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

This is not an application referred to in subsection (6), which applies to individuals occupying a room in a residential hotel, nor are there any orders by the director for service within a different specified period.

The landlord's agent stated that she had sent the original package on March 8, 2010, the Landlord's Application for Dispute Resolution was filed on March 3, 2010, and the notice of hearing documents had been received by the landlord from the Residential Tenancy Branch office on March 4, 2010. I find that the landlord did not serve the package within the 3 days as prescribed by the *Act*.

The landlord may serve the documents by registered mail so long as it is mailed within 3 days of making the application. Further, the landlord can consider it received, pursuant to Section 90, on the 5<sup>th</sup> day after it is mailed.

### **Conclusion**

For the reasons set out above, the landlord's application is hereby 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: June 24, 2010.

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Dispute Resolution Officer