



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and utilities, for compensation for cleaning expenses, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlord said she served the Tenants with the Application and Notice of Hearing by registered mail to the rental unit address on May 17, 2010. The Landlord admitted that the Tenants moved out of the rental unit on or about April 2, 2010 without giving her a forwarding address. The Landlord said she believed the Tenants may have had their mail forwarded to their new residence because it was not returned to her. However, the Landlord provided no reliable evidence that the Tenants' hearing packages had been forwarded to them and in the circumstances, I find that there is insufficient evidence to conclude that the Tenants were served with the Landlord's hearing packages as required by s. 89 of the Act. Consequently, the Landlord's application is dismissed with leave to reapply.

If the Tenants are evading service as the Landlord claimed, she may apply to the Residential Tenancy Branch for an Order for substituted service. Section 60 of the Act says that an application for dispute resolution must be made within 2 years of the date that the tenancy ends. Consequently, if the tenancy ended on April 2, 2010 as the Landlord claimed, then she would have to reapply **no later** than April 1, 2012 for her monetary claim against the Tenants.

Section 39 of the Act says that if a Tenant does not give a Landlord a forwarding address in writing within one year after the end of the tenancy, the Tenant's right to the return of the security deposit is extinguished and the Landlord may keep it.

Conclusion

The Landlord's application is 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: September 29, 2010.

Dispute Resolution Officer