



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing was scheduled to hear the landlord's application for a Monetary Order for damage to the rental unit, unpaid rent and authority to retain the security deposit. The tenant did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenant via registered mail to a postal box at a postal outlet. Upon further enquiry, the landlord stated that the tenant verbally advised the landlord at the end of the tenancy that she would be maintaining the same postal box the tenant used during the tenancy. I heard that the registered mail was inadvertently picked up by another individual and then returned to the post office and eventually was returned to the landlord.

Section 89(1) of the Act provides for ways a landlord may serve a tenant with a monetary claim. The landlord may serve the tenant by leaving a copy of the hearing documents with the tenant. The landlord may also serve the hearing documents by registered mail. When a landlord serves by registered mail it must be sent to the address at which the tenant resides or the forwarding address provided by the tenant.

Where a respondent does not appear at the hearing it is upon the applicant to show service occurred in a manner that satisfies the requirements of the Act. Proof of service of registered mail should include the registered mail receipt showing the date of mailing, the address for service and confirmation the address is the tenant's residence or forwarding address. The landlord did not provide such evidence with for the hearing.

Since the registered mail was returned to the landlord and the landlord did not provide other evidence to substantiate the tenant's mailing address is the postal box, I find I have insufficient evidence to determine the postal box is the tenant's forwarding address. Having not been satisfied of service of hearing documents, I dismiss this application with leave to reapply.

The landlord is at liberty to make this application within two years of the tenancy ending in order to sufficiently serve the tenant. Should the tenant provide the landlord with a forwarding address in writing the landlord will have 15 days to file an Application for Dispute Resolution in accordance with section 38 of the Act.

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: November 25, 2010.

Dispute Resolution Officer