



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order and to recover the filing fee.

The Landlord's Agent appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and make submissions to me.

The Landlord's Agent testified that the Application and Notice of Hearing documents were delivered to the Tenants by registered mail in the same envelope on September 17, 2010. The Landlord's Agent testified that the registered mail was picked up, but could not remember which Tenant signed for the mail. The proof of service was not submitted into evidence.

Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to a monetary order?

Background and Evidence

I heard testimony from the Landlord's Agent and saw evidence that this tenancy began in March 2007 and ended in October 2008, that monthly rent was \$600.00 and a security deposit of \$300.00 was paid on February 15, 2007.

I heard testimony that the Tenants owe unpaid rent for June 2008 through October 2008 in the amount of \$2,400.00.

According to the Landlord's Agent, the document submitted as proof of the Tenants' unpaid rent was a paper reflecting the Tenants' cash payments for rent. There was one cheque payment. No receipts or other evidence were submitted or before me.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The *Act* states that service of a copy of the application must be made to all of the other parties within 3 days of making it.

The Act, Rules of Procedure and principles of natural justice require that each Respondent be informed of the nature of the claim and the monetary amount sought against them. This is one of the many purposes of the Application for Dispute Resolution and the Notice of Hearing. Without being served individually or proof that either was served, the Tenants/Respondents would easily have any Decision or Order made against them overturned upon Review.

I find the Landlord was required to serve the Application and Notice of Hearing documents to each Tenant in a separate envelope and to provide proof of the delivery of the documents.

Therefore, on a balance of probabilities, I find the Tenants have not been served with the Notice of Hearing and Application for Dispute Resolution. I **dismiss** the Landlord's Application with leave to reapply.

Conclusion

The Landlord's Application for a Monetary Order 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*.

Dated: January 24, 2011.

Residential Tenancy Branch