



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF, O

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for compensation for a loss of rental income, to recover late fees and the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts. At the beginning of the hearing the Landlord's agent said the Tenant moved out on December 18, 2010 and as a result, I find that it is unnecessary to hear the Landlord's application for an Order of Possession and it is dismissed without leave to reapply.

The Landlord submitted a copy of a Canada Post receipt as proof of service which shows that the Tenant was served with the Application and Notice of Hearing (the "hearing package") by registered mail to the rental unit address on December 22, 2010. The on-line Canada Post tracking system shows that the Tenant did not pick up the Landlord's hearing package. Given that the Tenant moved out of the rental unit on December 18, 2010 and did not receive the hearing package, I find that the Tenant was not served with the Landlord's hearing package as required by s. 89 of the Act. Consequently, the Landlord's application for a Monetary Order is dismissed with leave to reapply.

Conclusion

The Landlord's application for an Order of Possession is dismissed without leave to reapply. The Landlord's application for a Monetary Order 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: January 17, 2011.

Residential Tenancy Branch