



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.

Issue(s) to be Decided

Has the Tenant breached the *Residential Tenancy Act* (the “Act”) or tenancy agreement, entitling the Landlord to an order monetary relief?

Background and Evidence

The Tenant did not appear at the hearing. The Landlord testified that service of the Notice of Hearing and copy of the Application was directed to the Tenant by registered mail. The registered mail was directed to the Tenant listed in the Application, but the Landlord testified that there were three other tenants.

The Landlord could not provide confirmation of the tracking number or date the registered mail was delivered.

Analysis

There was no evidence or confirmation to support that the Notice of Hearing and copy of the Application packages were sent via registered mail to each Tenant.

I find that service of the Notices of Dispute Resolution was not effected in accordance with Section 89 of the *Residential Tenancy Act* which states that service of Notice of Dispute Resolution, if sent via registered mail, must be sent to the address at which the person resides.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper

notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with the *Act*, I **dismiss** the Landlord's claim, **with leave to reapply**.

I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

As the Landlord has not been successful with her application, I find that she is not entitled to recover the cost of the filing fee from the Tenant.

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: March 03, 2011.

Residential Tenancy Branch