



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with the landlord's application for a Monetary Order for damage to the rental unit; damage or loss under the Act, regulations or tenancy agreement; authority to retain the security deposit; and, recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided evidence that he sent the hearing documents to the tenant via registered mail. The registered mail was returned to the landlord as unclaimed by the tenant.

The landlord was asked to provide evidence that the address used for the registered mail was the tenant's address at the time of mailing. The landlord asked that the tenant's former caretaker and friend be called as a witness. I called the witness who stated that he provided the landlord with the tenant's address upon obtaining the address from the tenant's current landlord. The witness was asked if he could provide a phone number for the tenant's current landlord. The witness indicated he could retrieve the phone number once he returned to the office.

The landlord then asked that I call the tenant himself to confirm the tenant's address. I called the number provided to me by the landlord but did not get an answer.

Section 89(1) of the Act provides for ways an applicant may serve a respondent with the Application for Dispute Resolution. Where registered mail is used, it must be sent to an address at which the tenant resides or the forwarding address provided by the tenant.

The Rules of Procedure provide that if the respondent does not attend the proceeding, the applicant must prove that the respondent was served as required under the Act. Residential Tenancy Policy Guideline 12 provides guidelines for what information should be available at the time of hearing in order to prove service. Where proof of service is insufficient the application may be dismissed or dismissed with leave to reapply.

I found I did not have sufficient evidence to conclude the address used to mail the hearing documents was the tenant's address of residence at the time of mailing. I grant the landlord leave to reapply within two years of the tenancy ending.

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: April 15, 2011.

Residential Tenancy Branch