



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for damage for unpaid rent and for money owed or compensation for damage or loss under the *Act*. The landlord also seeks an Order to keep the tenants security deposit and to recover the cost of the filing fee. This hearing was reconvened from a Direct Request Proceeding where the landlord successfully obtained an Order of Possession against the tenants. At that Direct Request Proceeding the Dispute Resolution Officer was unable to determine that the landlord had a tenancy agreement with both tenants and could not issue a Monetary Order for unpaid rent.

The landlords' agent testifies that he served the tenants by registered mail to an address of a Police Officer connected to one of the tenants who he states was in custody at that time. However, the tenants did not appear at the hearing. Therefore, I can not conform that the tenants were served according to the section 89 of the *Act which states* An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

As neither tenant provide this address as a forwarding address and the landlord is unable to confirm that the tenants received notice of this hearing I cannot proceed with the hearing today as I cannot deem that the tenants have been sufficiently served for the purposes of this Act.

Conclusion

To find in favour of an application, 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. In the absence of proof that the tenant was served with the hearing documents in accordance with the *Act*, or that the address used for service is the tenants forwarding address. Therefore I dismiss the landlord's application 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: June 07, 2011.

Residential Tenancy Branch