



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, MNR, MNSD, MNDC, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, unpaid utilities, the cost of repairs and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

The landlord testified that she served the tenant with the notice of hearing by registered mail, to the address at which the tenant's father resides. The mail was returned as unclaimed. The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Was the tenant properly served with the notice of hearing and the landlord's application? If so is the landlord entitled to a monetary order?

Background and Evidence

The landlord testified that the tenancy started on April 01, 2010 and ended when the tenant moved out sometime in the last week of February without informing the landlord. The tenant did not provide the landlord with a forwarding address. In trying to locate the tenant, the landlord called the tenant's employer who informed her that the employment had ended and that the tenant was now residing in the home of her father.

Accordingly the landlord mailed the hearing package to this address by registered mail. The mail was returned to the landlord as it remained unclaimed at the post office despite three reminder notices dropped off at the residence of the tenant's father.

Analysis

Section 89 (1) of the *Residential Tenancy Act* entitled “How to Give or Serve Documents” states:

- 89** (1) 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*].

In this case the landlord mailed the hearing package to the address of the tenant's father. Since, the service of this document was not carried out in compliance with Section 89 I find that the tenant was not properly served.

Conclusion

I am not satisfied that the tenant was served the notice of hearing and therefore, I dismiss this application 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: July 08, 2011.

Residential Tenancy Branch