



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, MNR, FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid rent; to apply the security deposit towards his monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

Preliminary Matters

The Landlord stated that he did not serve the female Tenant with the Notice of Hearing documents because he didn't have an address for the female Tenant. The Landlord testified that he mailed the Notice of Hearing documents, by registered mail, to the male Tenant at his place of business. The Landlord stated that the male Tenant did not leave a forwarding address, but the Landlord knew where the male Tenant worked.

Section 89 of the Act sets out the means by which service of Notice of Hearing documents can be affected, as follows:

Special rules for certain documents

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].

(emphasis added)

I explained to the Landlord that the male Tenant was not sufficiently served under the provisions of the Act and that I was dismissing his application with leave to reapply.

The Landlord requested an order for substituted service upon the Tenant. I explained to the Landlord that it was premature to consider an application for substituted service because the Landlord had not yet attempted to serve the Tenant in person pursuant to the provisions of Section 89(1)(a) of the Act.

Conclusion

Having failed to serve either of the Tenants with the Notice of Hearing documents, 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: July 07, 2011.

Residential Tenancy Branch