



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

Issue(s) to be Decided

1. Have the hearing documents been served to the respondent Landlord in accordance with section 89 of the *Residential Tenancy Act*?

Background and Evidence

The Tenant's Agent provided affirmed testimony that he conducted the service of the hearing documents to the Landlord on July 14, 2011 via registered mail sent to the rental property address. He stated he had knowledge that the Landlord had vacated the rental property sometime in July 2011. He could not confirm the Landlord was residing at the rental property when the hearing documents were sent on July 14, 2011. He confirmed he had driven past and saw different vehicles parked at the rental property which was an indication to him that the Landlord had vacated the property.

The Tenant could not say if the registered mail packages had been returned to her; however she did confirm she had a notification card from Canada Post that there was mail for her to pick up.

Analysis

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.

Section 89 (1)(c) of the Act provides that an application for dispute resolution if being served via registered mail must be sent to the address at which the person resides. The Agent who sent the registered mail with the hearing documents could not confirm the Landlord was still residing at the rental unit at the time the documents were served. Therefore I find there is insufficient evidence to prove the documents were sent in accordance with the Act and this application is dismissed with leave to reapply.

Conclusion

I HEREBY DISMISS the Tenant's claim, 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: August 29, 2011.

Residential Tenancy Branch