



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order, authorization to keep the security deposit and to recover the filing fee.

The landlord's agent appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in documentary form, and make submissions to me.

The tenant did not appear at the hearing.

The agent testified that the Application and Notice of Hearing documents were delivered to the tenant via personal delivery on May 20, 2011, to the tenant's mother, who was a co-tenant, according to the landlord's agent.

Issue(s) to be Decided

Has the tenant breached the Residential Tenancy Act (the "Act") or tenancy agreement, entitling the landlord to a monetary order?

Background and Evidence

The landlord's agent provided testimony that the tenant's mother was served with the Application and Notice of Hearing; however the landlord's agent, upon query, confirmed his evidence, which does not list a co-tenant on the tenancy agreement. Additionally, I note that the co-tenant is not listed on the application.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 89 (1) (a) and (c) of the *Act* states that service of a copy of the application for dispute resolution must be delivered to the tenant by leaving a copy with the person or by registered mail.

The Act and principles of natural justice require that the tenant/respondent be informed of the nature of the claim and the monetary amount sought against them.

This is one of the many purposes of the Application for Dispute Resolution and the Notice of Hearing. Without confirmation of being served, the tenant/respondent would easily have any Decision or Order made against them overturned upon Review.

Therefore, on a balance of probabilities, I find the tenants has not been served with the Notice of Hearing and Application for Dispute Resolution per the requirements of Section 89 (1) (a) and (c) of the Act.

Conclusion

Due to the above, I **dismiss** the landlord's Application for a Monetary Order for money owed or compensation for damage or loss, for damages to the rental unit, and to retain the security deposit, **with leave to reapply**.

I decline to award the landlord recovery of the filing fee.

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