



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said she did not remember when she served the Tenants with the Application and Notice of Hearing (the "hearing package") but it was by personal delivery to one of the Tenants. The Tenants said only one of them was served with the hearing package and it was in August, 2011. Based on the testimony and evidence of the Landlord and the testimony of the Tenants, I find that the Tenants were not served in accordance to section 59 (3) of the Act which says the parties must be served within 3 days of making the application. In this situation only one of the two Tenants was served and the service of documents was more than a month after the application was filed with the Residential Tenancy Branch which was on June 27, 2011. Consequently, I dismiss the Landlord's application with leave to reapply.

Conclusion

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*.

Residential Tenancy Branch