



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNDC, MNR, MNSD, O, OPR, SS, FF

Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, (the *Act*). The landlord was in attendance. The tenant did not appear.

Preliminary Issue

The landlord testified that on July 20, 2011 the landlord sent the hearing package by registered mail to the only address that the landlord had, which was the tenant's Post Office Box. The landlord testified that she did not receive confirmation of whether or not the package was received..

Because the landlord was seeking a monetary order, and based on the testimony given by the landlord, I find that the tenant was not properly served with this Application in compliance with Section 89 of the Act which states that an application for dispute resolution, when required to be served by the landlord to the tenant, must either be given directly to the person or sent by registered mail to the address at which the person resides or to a written forwarding address provided by the tenant.

In this instance the Notice of Hearing was sent by registered mail to a Post Office Box rather than to the tenant's current address where the tenant is actually residing.

The burden is on the applicant to prove that the service was within the above provisions. As the landlord served the documents to an address that was not confirmed to be that of the tenant's current residence, I find that this would not meet the definition of service by registered mail to the "*address at which the person resides*" and is therefore not valid service under the Act.

Given the above, I find that the matter under dispute cannot proceed because the landlord has not proven that the tenant was properly served and I therefore have no choice under the Act but to dismiss this application with leave to reapply at a later date

should the landlord wish to do so, once the residential service address has been located for the respondent.

Conclusion

Based on evidence and testimony, I hereby dismiss this application 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: October 05, 2011.

Residential Tenancy Branch