



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, OPR, FF

Introduction

This was an application by the landlord for an order for possession, a monetary order and an order to retain the security deposit in partial satisfaction of the monetary claim. The hearing was conducted by conference call. The landlord's representative attended, but the tenant did not call in and did not participate in the hearing.

Background and Evidence

The landlord's representative testified that the tenant failed to pay rent for September. The landlord served a 10 day Notice to End Tenancy for unpaid rent on September 8, 2011. The landlord filed this application for dispute resolution on September 28, 2011. The landlord's representative testified that the tenant moved out and dropped off the keys to the rental unit on September 30, 2011. The landlord sent the application for dispute resolution and Notice of Hearing to the tenant by registered mail on September 30, 2011.

The landlord suggested that the tenant may have received the hearing package because he returned to the rental unit several times after September 30th to request that the landlord open the mailbox so he could retrieve his mail. The landlord provided the tracking number for the registered mail sent to the tenant on September 30th. The tracking information showed that the tenant did not pick up the registered and it was returned to the sender on October 12, 2011.

Analysis and conclusion

Section 89 of the *Residential Tenancy Act* provides that an application for dispute resolution may be served on a tenant by sending a copy by registered mail to the address at which the person resides.

The landlord's evidence shows that the tenant moved out of the rental unit on September 30, 2011, the day that the landlord sent the documents by registered mail. I

find that the tenants did not reside at the rental unit address when the registered mail was sent. The landlord has not satisfied the onus of proving that the tenant was properly served and the landlord's application is therefore 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: October 28, 2011.

Residential Tenancy Branch